



Re: GAP Guidance and Guidebook discussion with HQ

Grant Jonathan to: Janice Whitney
Cc: Argie Cirillo, Pat Evangelista

09/13/2012 08:24 AM

Argie and I concur that we should suggest HQ provide flexibility here. I think we are all on the same page here. This recertification requirement could impact the Cayuga's membership of the HETF. It is best for the Region to stick with the status quo.

*Regions should not require tribal recertification every time a GAP grantee applies for a GAP grant. Especially where the grantee has already established certification with the Region, is meeting all required conditions under the grant, and has demonstrated successful productivity by meeting deliverables (environmental successes) under the grant.

*In addition to the Indian nation grantees finding this requirement overly burdensome and frustrating, they will assert that it is offensive and insulting and an infringement on tribal sovereignty. EPA knows who the governing leadership is in each Nation. In our region, we regularly interact and consult directly with them. Therefore, recertification is unnecessary.

*The only flip side to this is that it would not appear to be unreasonable for a new grantee to be required to recertify; such as if Oneida were to submit a new application for GAP, the Region could require them to recertify since they haven't received GAP in a very long time.

That is my two cents. Short, and sweet is best.

~~~~~  
Grant W. Jonathan  
U.S. Environmental Protection Agency - Region 2  
Office of Strategic Programs - Indian Program  
290 Broadway  
New York, NY 10007  
212.637.3843 (phone)  
917.304.4149 (awl)  
212.637.3772 (fax)  
Email: jonathan.grant@epa.gov  
~~~~~

Janice Whitney

Hi Grant- HQ just said that re: certification of me...

09/06/2012 12:21:13 PM

From: Janice Whitney/R2/USEPA/US
To: Grant Jonathan/R2/USEPA/US@EPA
Cc: Argie Cirillo/R2/USEPA/US@EPA, Pat Evangelista/R2/USEPA/US@EPA
Date: 09/06/2012 12:21 PM
Subject: GAP Guidance and Guidebook discussion with HQ

Hi Grant-

HQ just said that re: certification of membership for inter-tribal consortia, they are planning to only have the certification be good for the term of a GAP grant (up to four years)....guess they intend to put the nations through re-certification every time a new GAP grant begins...

do you agree R2 should comment this is not necessary? since the HETF has continued to receive its GAP funds after R2 led the 1999 revision of Part 35 to allow them to receive funding in the first place? and the nations have all had standing letters on file since that time (with no request for new ones)?

if yes, can you or Argie, please send me some language to add to the comment document I am finalizing for George?

Janice Whitney, Esq.
Regional Indian Coordinator, Consultation Advisor and Environmental Affairs Specialist
Indigenous Program, Director's Office, Division of Environmental Planning & Protection
U.S. Environmental Protection Agency, 290 Broadway, 25th Floor, NY, NY 10007
Phone: 212-637-3790 Monday-Thursday (Do Not Work Fridays)
Fax: 212-637-3772 email: whitney.janice@epa.gov

"With one mind we address our acknowledgement, respect and gratefulness to all the sacred Cycle of Life. We, as humans, must remember to be humble and acknowledge the gifts we use so freely in our daily lives." Audrey Shenandoah, Deer Clan Mother, Onondaga Nation

Re: Fw: Request for Review of Draft Guidance for Indian General Assistance Program "Internal EPA deliberative document, do not cite or distribute outside the Agency"

Argie Cirillo

to:

Grant Jonathan

08/28/2012 12:52 PM

Hide Details

From: Argie Cirillo/R2/USEPA/US

To: Grant Jonathan/R2/USEPA/US@EPA,

No response. Will call Pat. Could you please send me a copy of the final letter?

-----Grant Jonathan/R2/USEPA/US wrote: -----

To: Argie Cirillo/R2/USEPA/US@EPA

From: Grant Jonathan/R2/USEPA/US

Date: 08/28/2012 09:49AM

Subject: Fw: Request for Review of Draft Guidance for Indian General Assistance Program "Internal EPA deliberative document, do not cite or distribute outside the Agency"

Hi Argie.

I am still catching up on emails. I forward this to you, along with the attachments, as an FYI.

Pat asked at this morning's OSP staff meeting whether we have received a response from OGC regarding George's letter. Have you heard anything? Could you also follow-up with Pat and just let him know the status of this? Thanks.

~~~~~  
Grant W. Jonathan  
U.S. Environmental Protection Agency - Region 2  
Office of Strategic Programs - Indian Program  
290 Broadway  
New York, NY 10007  
212.637.3843 (phone)  
917.304.4149 (awl)  
212.637.3772 (fax)  
Email: jonathan.grant@epa.gov

~~~~~  
----- Forwarded by Grant Jonathan/R2/USEPA/US on 08/28/2012 09:47 AM -----

From: Dennis Santella/R2/USEPA/US

To: Pat Evangelista/R2/USEPA/US@EPA, Grant Jonathan/R2/USEPA/US@EPA, Janice Whitney/R2/USEPA/US@EPA

Cc: George Pavlou/R2/USEPA/US@EPA

Date: 08/22/2012 08:02 AM

Subject: Fw: Request for Review of Draft Guidance for Indian General Assistance Program "Internal EPA deliberative document, do not cite or distribute outside the Agency"

This is the package from HQ I mentioned earlier. It was discussed on the DRA call yesterday. The back story is that a large number of comments from previous iterations have been incorporated into the guidance. However, a number have not. There are a number of deliberate omissions and they want to explain to the DRAs what the omissions are and why they were omitted so they don't hear "You left xyz out. 18 times. The DRA briefing is scheduled for

tomorrow at 4. I will call in and take notes for George.

----- Forwarded by Dennis Santella/R2/USEPA/US on 08/22/2012 07:52 AM -----

From: Donna Vizian/R2/USEPA/US
To: "Dennis Santella" <Santella.Dennis@epamail.epa.gov>
Date: 08/21/2012 12:30 PM
Subject: Fw: Request for Review of Draft Guidance for Indian General Assistance Program

Michelle Pirzadeh

----- Original Message -----

From: Michelle Pirzadeh
Sent: 08/21/2012 09:27 AM PDT
To: Donna Vizian
Subject: Fw: Request for Review of Draft Guidance for Indian General Assistance Program
FYI

Michelle Pirzadeh
Deputy Regional Administrator
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900, RA-140
Seattle, Washington 98101-3140
(206) 553-1234
pirzadeh.michelle@epa.gov

----- Forwarded by Michelle Pirzadeh/R10/USEPA/US on 08/21/2012 09:26 AM -----

From: Michael Stahl/DC/USEPA/US
To: Assistant Administrators, Regional Administrators,
Cc: DAA-Career, DRA, Mike Weckesser/DC/USEPA/US@EPA, Karin Koslow/DC/USEPA/US@EPA, JoAnn Chase/DC/USEPA/US@EPA, EPA RICS, Felicia Wright/DC/USEPA/US@EPA, Andrew Baca/DC/USEPA/US@EPA, Elizabeth Jackson/DC/USEPA/US@EPA, Monica Rodia/DC/USEPA/US@EPA, Jonathan Binder/DC/USEPA/US@EPA, Pat Childers/DC/USEPA/US@EPA, Joann Brant/DC/USEPA/US@EPA, Caren Robinson/DC/USEPA/US@EPA, Marc Vincent/DC/USEPA/US@EPA, Jessica Snyder/DC/USEPA/US@EPA, Joe Edgell/DC/USEPA/US@EPA
Date: 08/17/2012 02:07 PM
Subject: Request for Review of Draft Guidance for Indian General Assistance Program

Good Afternoon --

Attached for your internal review and comment is the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity. As a reminder, this draft Guidance was prepared because of our ongoing commitment to effective oversight of tribal capacity building resources and our need to respond to

the Office of Inspector General (OIG) audit report, "Framework for Developing Tribal Capacity Needed in the Indian General Assistance Program" (Report No. 08-P-0083, 02/19/2008).

Please note the attached draft is marked with the statement, "Internal EPA deliberative document, do not cite or distribute outside the Agency." We ask that you manage the draft document accordingly.

In developing this draft, we made an effort to incorporate the comments and suggestions we received in response to the initial Tribal Consultation period that ended on January 30, 2012. Based on the thoughtful input from Tribal Governments received during and beyond this first consultation period as well as continued discussions with EPA Headquarters and Regional program staff, we made substantial changes.

Also attached are the GAP Guidance development schedule and the interim summary of issues, which serves as a question and answer document. For consistency and for reviewers to see the same questions and answers raised during the Consultation and Coordination periods, attached is the original version developed this past December.

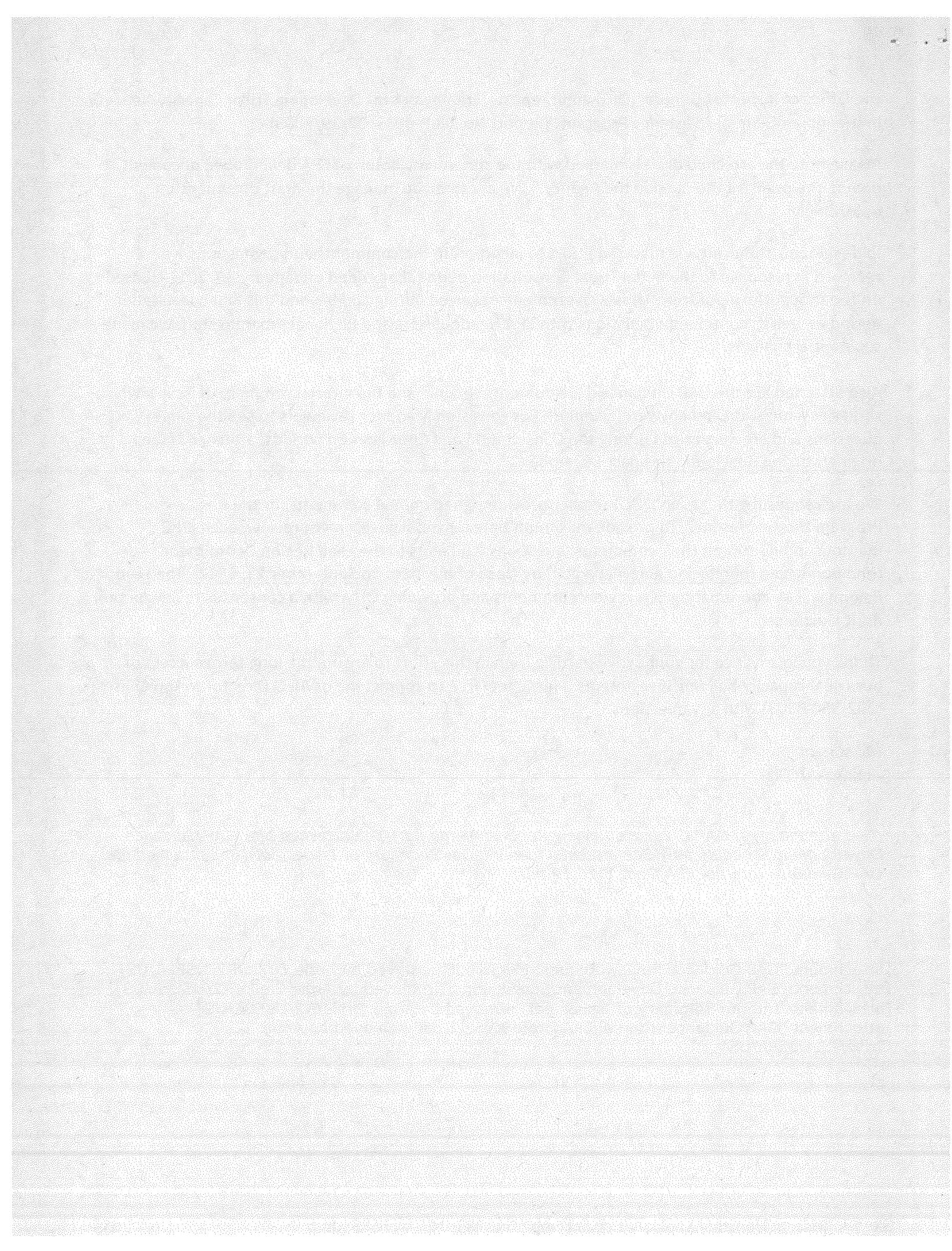
We are requesting that each IPPC member provide signed unified comments for the Region or Program they represent. To provide maximum time for tribal government review, each IPPC member should submit their comments, questions, and edits to the Lead Region Coordinator Gina Bonifacino (bonifacino.gina@epa.gov) **by close of business on September 21, 2012.** The Lead Region will be coordinating EPA review comments and providing OITA with a consensus review of the draft Guidance.

Thank you in advance for your active participation in this effort to ensure the long term success of our tribal capacity building investments. Please feel free to contact me or AIEO Director JoAnn Chase (202-564-0303) with any questions.

Mike Stahl
Acting AA/OITA


(See attached file: GAP Guidance Review Request Memo.pdf)(See attached file: GAP Guidance Development Schedule.pdf)(See attached file: Interim Summary of Issues.pdf)(See attached file: GAP Guidance Internal EPA Draft 8.16.12.pdf)

[attachment "GAP Guidance Review Request Memo.pdf" removed by Argie Cirillo/R2/USEPA/US]
[attachment "GAP Guidance Development Schedule.pdf" removed by Argie Cirillo/R2/USEPA/US]
[attachment "Interim Summary of Issues.pdf" removed by Argie Cirillo/R2/USEPA/US]
[attachment "GAP Guidance Internal EPA Draft 8.16.12.pdf" removed by Argie Cirillo/R2/USEPA/US]





Re: request for review and comment and forward any comments to me by
COB Sept 5th---Fw: Request for Review of Draft Guidance for Indian General
Assistance Program

"Internal EPA deliberative document, do not cite or distribute outside the
Agency" 

Argie Cirillo to: Janice Whitney, Grant Jonathan, Pat Evangelista

09/04/2012 08:52 AM

Janice,

The main comments following my review of the revised GAP Guidebook are as follows:

1. Section 1.1 Program Background, page 1 and Section 3.2 Identifying EPA Programs and Priorities, page 12 do not mention the sovereignty of the tribes/nations and the recognition of tribal laws and policy on Indian land. While EPA may enforce EPA's statutes the GAP document should recognize the sovereignty of tribes/nations to enforce their own laws and policy on Indian land as well. It is suggested that "tribal policy/law" be added after "particular statute" in Section 1.1. Due to the Two Row Wampum Agreement and the Treaty of Canandaigua sovereignty is of particular concern to R2 Nations as indicated in the comments received by Curtis Waterman and Neil Patterson of the HETF on the previous draft of the GAP Guidebook.

2. Section 3.2 Mutual Roles and Responsibilities for Environmental Program Implementation and Program Development Milestones, page 12, Appendix C.6.6, Protecting Ambient & Indoor Air and Appendix D.6.2, Protecting Water Quality require clarification as a whole. If read together do they imply that GAP funding may be used for the implementation of programs beyond tribal capacity building? The revision should provide a clearer discussion of the ability to use GAP funding for implementation beyond tribal capacity building. Many of the R2 Nations, particularly the HETF Nations, are unable to seek program specific grants as they are limited by regulatory definition requiring all nations of the consortia to be federally recognized. As not all of the HETF Nations are federally recognized, the HETF can not apply for many program specific grants. In such cases GAP funding is the only means available to the HETF to proceed from capacity building to implementation.

I have also attached a copy of the comment document provided by HQ, which included the comments provided by the Tuscarora Nation to the previous draft of the GAP Guidebook. I reviewed the revised GAP Guidebook against each of the comments made to see if the comments were addressed in the latest revision. The attached comment document includes a compilation of my notes against each comment so that each of you can easily see which comments were included in the latest draft and which were not. Please scroll down to Tuscarora Nation to see notes. This should help in discussions on the GAP Guidebook with HQ as well as the Nations.



GAPcommentsAC.pdf

Argie Cirillo, Esq.
Indian Matters Legal Specialist
Office of Regional Counsel
Telephone: (212) 637-3178
Email: cirillo.argie@epa.gov

CONFIDENTIAL: This message may contain information that is privileged or otherwise exempt from disclosure under applicable law. Do not disclose without consulting the Office of Regional Counsel. If you think you received this email in error, please notify the sender immediately.

Janice Whitney

Hi folks- as many of you know, HQ is revising th...

08/22/2012 10:38:39 AM

From: Janice Whitney/R2/USEPA/US
To: Argie Cirillo/R2/USEPA/US@EPA, Berry Shore/R2/USEPA/US@EPA, Christopher Dere/R2/USEPA/US@EPA, Cynthia Pabon/R2/USEPA/US@EPA, Gavin Lau/R2/USEPA/US@EPA, Gerard McKenna/R2/USEPA/US@EPA, Grant Jonathan/R2/USEPA/US@EPA, Janice Whitney/R2/USEPA/US@EPA, John Filippelli/R2/USEPA/US@EPA, Kai Tang/R2/USEPA/US@EPA, Lorraine Graves/R2/USEPA/US@EPA, Maureen Hickey/R2/USEPA/US@EPA, Pam Tames/R2/USEPA/US@EPA, Pat Evangelista/R2/USEPA/US@EPA, roarpine@sbcglobal.net, rrwillia@suffolk.lib.ny.us, Rebecca Jamison/R2/USEPA/US@EPA, Tasha Frazier/R2/USEPA/US@EPA, Terry Wesley/R2/USEPA/US@EPA
Cc: Dennis Santella/R2/USEPA/US@EPA, George Pavlou/R2/USEPA/US@EPA
Date: 08/22/2012 10:38 AM
Subject: request for review and comment and forward any comments to me by COB Sept 5th---Fw: Request for Review of Draft Guidance for Indian General Assistance Program
"Internal EPA deliberative document, do not cite or distribute outside the Agency"

Hi folks-

as many of you know, HQ is revising then GAP program and I am forwarding you the latest documents
HQ is presently briefing DRAs about.

R2 nations have expressed concerns and these have been forwarded to HQ. Here is the cumulative document (see pages 30-31 for Tuscarora written comments) [attachment
"GAP.Guidebook.TribalComments_032912.pdf" deleted by Argie Cirillo/R2/USEPA/US]

HQ has scheduled a call for Indian Program Policy Council (IPPC) Steering Committee for Sept 10th. As the R2 IIPC Steering Committee rep, I want to make sure that I have your feedback to share during that discussion, and also to give me time to compile all R2 comments, share with R2 managers and transmit to HQ well before the 9/26 IPPC meeting.

To capture all regional program comments, I am forwarding these out to you and asking that you please **forward any comments to me by COB Sept 5th** so that I can compile them, share with R2 managers and forward to HQ.

NOTE: at present time, these remain internal documents, so please do not forward out. HQ intends to consult with nations during the timeframe late Sept-Dec (after our agency review and discussion of these documents).

I also forward the R2 nation rep comments provided to AIEO's Deputy Director Karin Koslow, during our annual R2 leadership meetings in Salamanca:

-----Forwarded by Janice Whitney/R2/USEPA/US on 07/11/2012 06:37AM -----
To: Karin Koslow/DC/USEPA/US@EPA
From: Janice Whitney/R2/USEPA/US
Date: 06/27/2012 01:52PM
Subject: R2 speakers on GAP Guidebook

Hi Karin,

Thanks again for coming up to R2 and presenting on the Guidebook

FYI, the four commenters and my notes:

June 27

Karin Koslow- GAP GUIDEBOOK

Need to establish consistency across the country and be able to identify accomplishments by identifying short and long-term goals.

Curtis Waterman, Onondaga Nation rep to HETF (Haudenosaunee Environmental Task Force consists of 4 nations, the Onondaga, Cayuga, Tonawanda Seneca and Tuscarora Nations. Because they have sovereignty issues with TAS terminology, they have so far refused to apply for program grants which require TAS; the Seneca Nation of Indians, our host, also express similar sovereignty concerns. Only one nation, the St. Regis Mohawk Tribe, has TAS.)

Curtis comment: (sitting behind me)

- implementation under GAP?

Response: No, cannot use funds to support implementation. Encourage getting TAS status.

Neal Patterson, Tuscarora Nation rep to HETF

Neal comments: (back row, to my left). Neal also submitted written comments -explains HETF consortium cannot obtain TAS. R2 is unique with HETF, so request regional flexibility to recognize diversity of nations across the country.

-crosses over the Two Row wampum, goes into telling nations how to run their business.....a treaty violation in Haudenosaunee view.

Ken Jock, Env't Director, St. Regis Mohawk Tribe

Ken Jock comments: (sitting next to me)

- has difficulty with concept, allowed to build programs, but once built, aren't provided funds to implementation.

- Is there a definition of capability? Capacity vs. implementation

Dave Arquette, Director, HETF (last commenter)

Dave Arquette comment:

- HETF requesting a face-to-face meeting to discuss this with R2 nations. Karin will carry this message back.

Michelle Pirzadeh

----- Original Message -----

From: Michelle Pirzadeh

Sent: 08/21/2012 09:27 AM PDT

To: Donna Vizian

Subject: Fw: Request for Review of Draft Guidance for Indian General Assistance Program
FYI

Michelle Pirzadeh

Deputy Regional Administrator

U.S. Environmental Protection Agency, Region 10

1200 Sixth Avenue, Suite 900, RA-140

Seattle, Washington 98101-3140

(206) 553-1234

pirzadeh.michelle@epa.gov

----- Forwarded by Michelle Pirzadeh/R10/USEPA/US on 08/21/2012 09:26 AM -----

From: Michael Stahl/DC/USEPA/US
To: Assistant Administrators, Regional Administrators,
Cc: DAA-Career, DRA, Mike Weckesser/DC/USEPA/US@EPA, Karin Koslow/DC/USEPA/US@EPA, JoAnn Chase/DC/USEPA/US@EPA, EPA RICS, Felicia Wright/DC/USEPA/US@EPA, Andrew Baca/DC/USEPA/US@EPA, Elizabeth Jackson/DC/USEPA/US@EPA, Monica Rodia/DC/USEPA/US@EPA, Jonathan Binder/DC/USEPA/US@EPA, Pat Childers/DC/USEPA/US@EPA, Joann Brant/DC/USEPA/US@EPA, Caren Robinson/DC/USEPA/US@EPA, Marc Vincent/DC/USEPA/US@EPA, Jessica Snyder/DC/USEPA/US@EPA, Joe Edgell/DC/USEPA/US@EPA
Date: 08/17/2012 02:07 PM
Subject: Request for Review of Draft Guidance for Indian General Assistance Program

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Mike Stahl
Acting AA/OITA

[attachment "GAP Guidance Review Request Memo.pdf" deleted by Argie Cirillo/R2/USEPA/US]

[attachment "GAP Guidance Development Schedule.pdf" deleted by Argie Cirillo/R2/USEPA/US]

[attachment "Interim Summary of Issues.pdf" deleted by Argie Cirillo/R2/USEPA/US] [attachment "GAP Guidance Internal EPA Draft 8.16.12.pdf" deleted by Argie Cirillo/R2/USEPA/US]

Fw: Request for Review of Draft Guidance for Indian General Assistance Program

Pat Evangelista to: Grant Jonathan

08/17/2012 07:59 PM

Sent by EPA Wireless E-Mail Services
Judith Enck

----- Original Message -----

From: Judith Enck

Sent: 08/17/2012 06:27 PM EDT

To: Pat Evangelista

Subject: Fw: Request for Review of Draft Guidance for Indian General Assistance Program
Pat. Plz take the lead. Tx

Sent by EPA Wireless E-Mail Services
Michael Stahl

----- Original Message -----

From: Michael Stahl

Sent: 08/17/2012 05:07 PM EDT

To: Assistant Administrators; Regional Administrators

Cc: DAA-Career; DRA; Mike Weckesser; Karin Koslow; JoAnn Chase; EPA RICS; Felicia Wright; Andrew Baca; Elizabeth Jackson; Monica Rodia; Jonathan Binder; Pat Childers; Joann Brant; Caren Robinson; Marc Vincent; Jessica Snyder; Joe Edgell

Subject: Request for Review of Draft Guidance for Indian General Assistance Program

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Mike Stahl
Acting AA/OITA



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GAP Guidance Internal EPA Draft 8.16.12.pdf

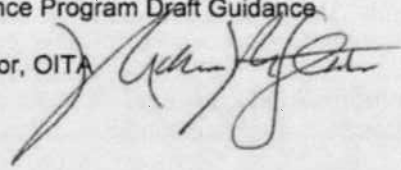


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 17 2012

Office of
International and
Tribal Affairs

MEMORANDUM

SUBJECT: Request to Review Indian General Assistance Program Draft Guidance
FROM: Michael Stahl, Acting Assistant Administrator, OITA 
TO: Assistant Administrators
Regional Administrators

Attached for your review and comment is the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity. As a reminder, this draft Guidance comes in response to our ongoing commitment of effective oversight of tribal capacity building resources and our need to respond to the Office of Inspector General (OIG) audit report, "Framework for Developing Tribal Capacity Needed in the Indian General Assistance Program" (Report No. 08-P-0083, 02/19/2008).

Substantive Changes

In developing this draft, we made an effort to incorporate the comments and suggestions we received in response to the initial Tribal Consultation period that ended on January 30, 2012. Based on the thoughtful input from Tribal Governments received during and beyond this first consultation period as well as continued discussions with EPA Headquarters and Regional program staff, we made substantial changes.

These changes include:

- **Integration of the Guidance and the Guidebook.** Due to scheduling constraints, the Guidance and Guidebook had been developed as separate documents, leading to confusion as to the relationship between the two documents. The documents have since been combined, with the Guidance serving as the principle document identifying program requirements, and the Guidebook serving as an appendix providing direction on the indicators of capacity building.
- **Clarification on the development of EPA-Tribal Environmental Plans.** There were many inquiries about the joint planning agreements, and their relationship to current TEAs and other environmental practices. The Guidance now includes greater detail on the purpose and structure of these agreements.
- **Greater Detail on Programmatic Capacity Building.** OITA worked with EPA National Program Offices to provide more detailed information identifying the areas for capacity within the respective programs.

Additional questions raised during the Consultation and Coordination periods are addressed in the attached Summary of Issues document.

Key Components

In addition to the changes listed above, we have determined the following areas as key components that must be incorporated into GAP program operation in order to ensure the future of the program. These include:

- **Tribal-EPA Plans.** Work plans must be related to EPA-Tribal Environmental Plans or other joint strategic planning documents. While the Guidance does not prescribe a standardized format, EPA will be clearly articulating the elements that will need to be in the plans.
- **Solid Waste Implementation.** Consistent with the proposed Agency-Wide Plan, recipients must be working towards or have an established integrated solid waste management program in place before GAP funding can be used in cleanup. Funds may not be used for repeated cleanups at the same locations, except for in limited circumstances.
- **Environmental Presence.** Activities funded under GAP must extend beyond staffing support to encompass specific institutional, administrative, and program capacity building objectives.

Review Procedure

Please note the attached draft is marked with the statement, "Internal EPA deliberative document, do not cite or distribute outside the Agency." We ask that you manage the draft document accordingly.

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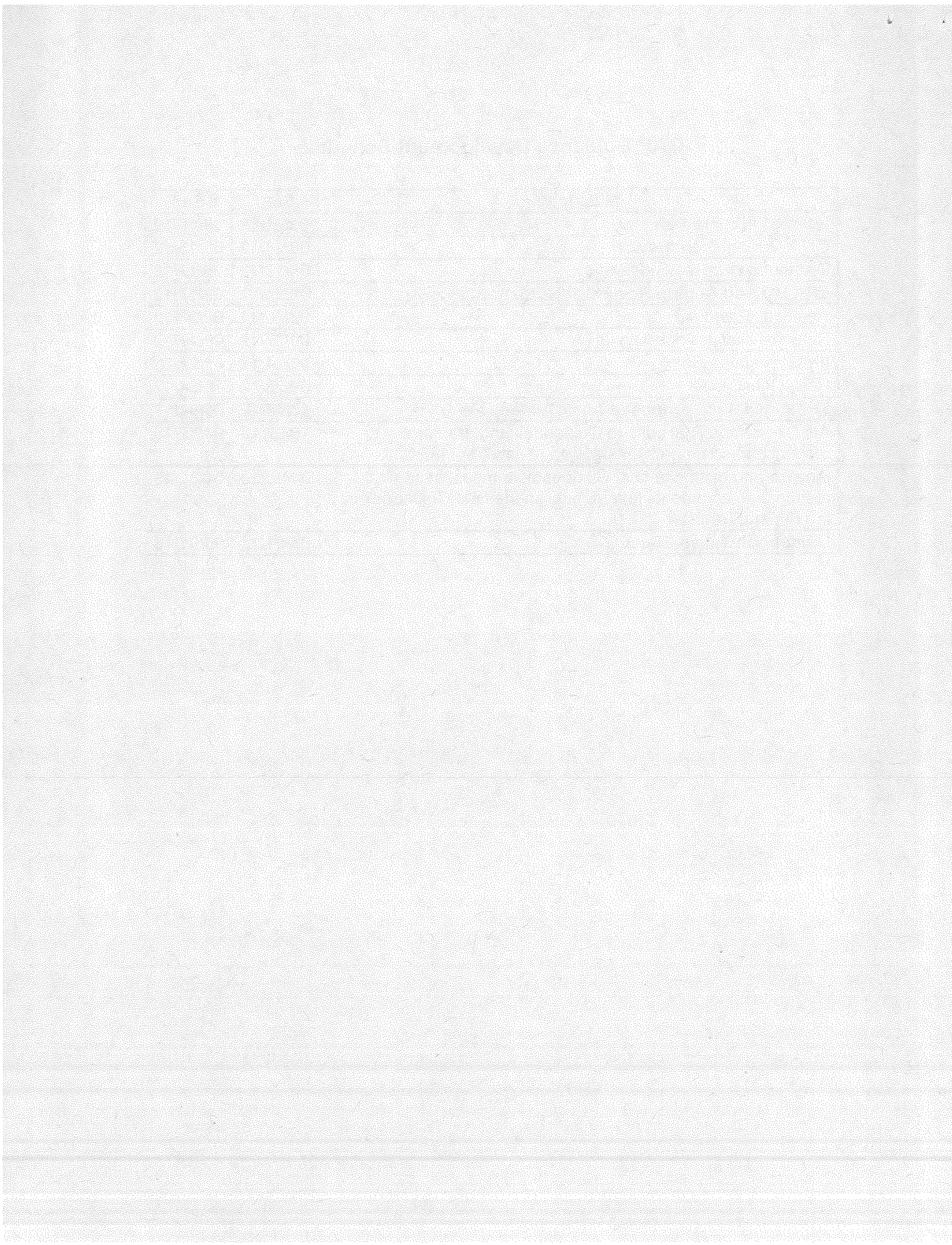
Attachments:

- Indian Environmental General Assistance Programs: Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia (Draft August, 2012)
- Interim Summary of Issues
- Key Dates for Guidance Development

cc: Deputy Regional Administrators
Deputy Assistant Administrators
JoAnn Chase, Director, AIEO

GAP Guidance Development Schedule

Milestone	Start	End
Internal AIEO review	03/21/12	08/10/12
OITA Management Review	08/14/12	08/15/12
Distribution for Region Review	08/17/12	08/17/12
EPA HQ and Region Review of Guidance	08/20/12	09/27/12
Regional Q and A	08/20/12	08/23/12
Regional Discussions with OITA	08/27/12	09/17/12
IPPC Discussion	09/24/12	09/27/12
Revise Guidance	09/28/12	10/04/12
Tribal review of proposed final Guidebook	10/04/12	01/04/13
AIEO develops final edits to Guidebook and draft final response to comments letters, with review from IPPC	10/07/13	04/12/13
Finalize and distribute final Guidebook to tribes, send final response to comments letters, publish the final Guidebook in the Federal Register	04/15/13	04/30/13
Guidebook Takes Effect	05/01/13	05/01/13



Summary of Issues Raised During Consultation & Coordination Process

We have received input from tribal government officials, their staff, and representatives of tribal organizations during a series of conference calls, webinars, and face-to-face meetings since August 1, 2011. While a number of these comments reflect appreciation for the capacity building framework outlined in the proposed Guidebook, some concerns have also been raised. A summary of these issues and our interim response follows.

Q1: Will the proposed Guidebook change recipient eligibility criteria?

A1: No. Recipient eligibility criteria are established by statute to include all federally recognized tribes and intertribal consortia.

Q2: Will the proposed Guidebook eliminate federally recognized tribes in Alaska from receiving funds under the GAP?

A2: No. Federally recognized tribes in Alaska are statutorily eligible to receive funding under the GAP.

Q3: Does the proposed Guidebook *require* all tribes to assume the lead role for implementing federal environmental regulatory and enforcement programs?

A3: No. Consistent with EPA's 1984 Indian Policy, the proposed Guidebook encourages tribes that wish to develop the capacity to implement federal regulatory and enforcement programs to do so, consistent with their jurisdiction and authorities. While the proposed Guidebook provides an overall framework for building this type of capacity, the Guidebook also acknowledges that many tribes are not currently seeking to build the capacity to take the lead role for implementing programs administered by EPA. Specifically, the proposed Guidebook states:

EPA also provides technical and financial assistance to build environmental program capacity for tribes that, for whatever reason, are not currently able to implement federally authorized regulatory and enforcement programs. This helps EPA ensure that all federally recognized tribes have the opportunity to meaningfully participate in the Agency's policy making, standard setting, and direct implementation activities potentially affecting tribal interests. This also helps all tribal governments cooperate and, when appropriate, enter into intergovernmental agreements with neighboring state and local government authorities in an informed manner. This assistance helps tribes identify and characterize environmental protection priorities for their communities and meaningfully participate as informed partners to resolve environmental problems.
(Pages 1-2 of Consultation Draft)

This text is consistent with the Indian policy that states EPA's commitment to: "Where EPA retains such responsibility, the Agency will encourage the Tribe to participate in policy-making and to assume appropriate lesser or partial roles in the management of reservation programs"; and "EPA will encourage early communication and cooperation among Tribes, States and local governments".

Q4: Does the proposed Guidebook require recipients to demonstrate regulatory jurisdiction over facilities, activities, or sites within their territories before receiving GAP assistance?

A4: No. Specifically, the proposed Guidebook states:

Some tribes may not have exclusive environmental regulatory jurisdiction over facilities, activities, or sites within their territories. In keeping with the general federal trust responsibility and the EPA Indian Policy, the Agency recognizes that these tribal governments should still be afforded the opportunity to develop an environmental program that will support their meaningful involvement in the protection of tribal member health and natural resources that may be utilized by tribal members. Tribes with limited jurisdiction to implement federal environmental regulatory programs may develop core program capacities for purposes consistent with the extent of their authorities, such as developing voluntary or partial environmental management programs, participating in EPA policy making, coordinating with EPA or other federal agencies to implement federal environmental programs, and may consider entering into joint environmental management programs with neighboring state or local environmental agencies. (Page 8 of Consultation Draft)

Q5: Does the proposed Guidebook establish a process by which a tribe or intertribal consortia will become ineligible to receive GAP assistance after capacity is successfully developed? Do the 1-2 year and 2-5 year general time lines imply that a recipient would no longer be eligible to receive GAP assistance beyond 5 years?

A5: No. There is a reasonable expectation that there should be some nationally consistent indicators to measure our progress at building tribal capacity over time. The proposed Guidebook contains an extensive set of indicators to show the progress a recipient is making in building their environmental management capacity. However, the proposed Guidebook is also clear that capacity development is a continuing programmatic requirement. Without sustained funding, a recipient may lose the program capacity achievements previously established and may fail to keep pace with new technologies, personnel transition planning/skill sharing, and increased complexity of environmental programs. Specifically, the proposed Guidebook states:

EPA recognizes that establishing core environmental protection program capacities is an on-going effort, reflecting that core capacities will evolve as the tribal environmental program itself expands and undertakes additional authorities. Tribes should re-evaluate their core program capacities on a regular basis to ensure that these systems, procedures, and policies are still appropriate for the current stage of the environmental management program. In addition, other core capacities may need to be added to support the more complex activities that will be undertaken as tribes develop media-specific environmental initiatives. (Page 8 of Consultation Draft)

Q6: Does the proposed Guidebook seek to limit flexibility and eliminate specific activities that have been funded in the past?

A7: No. The proposed Guidebook does not target specific activities that should no longer be funded. However, by providing more clarity on how we will measure our progress in building tribal environmental management capacity, some of the activities we have funded in the past may need to be reconsidered. Funding

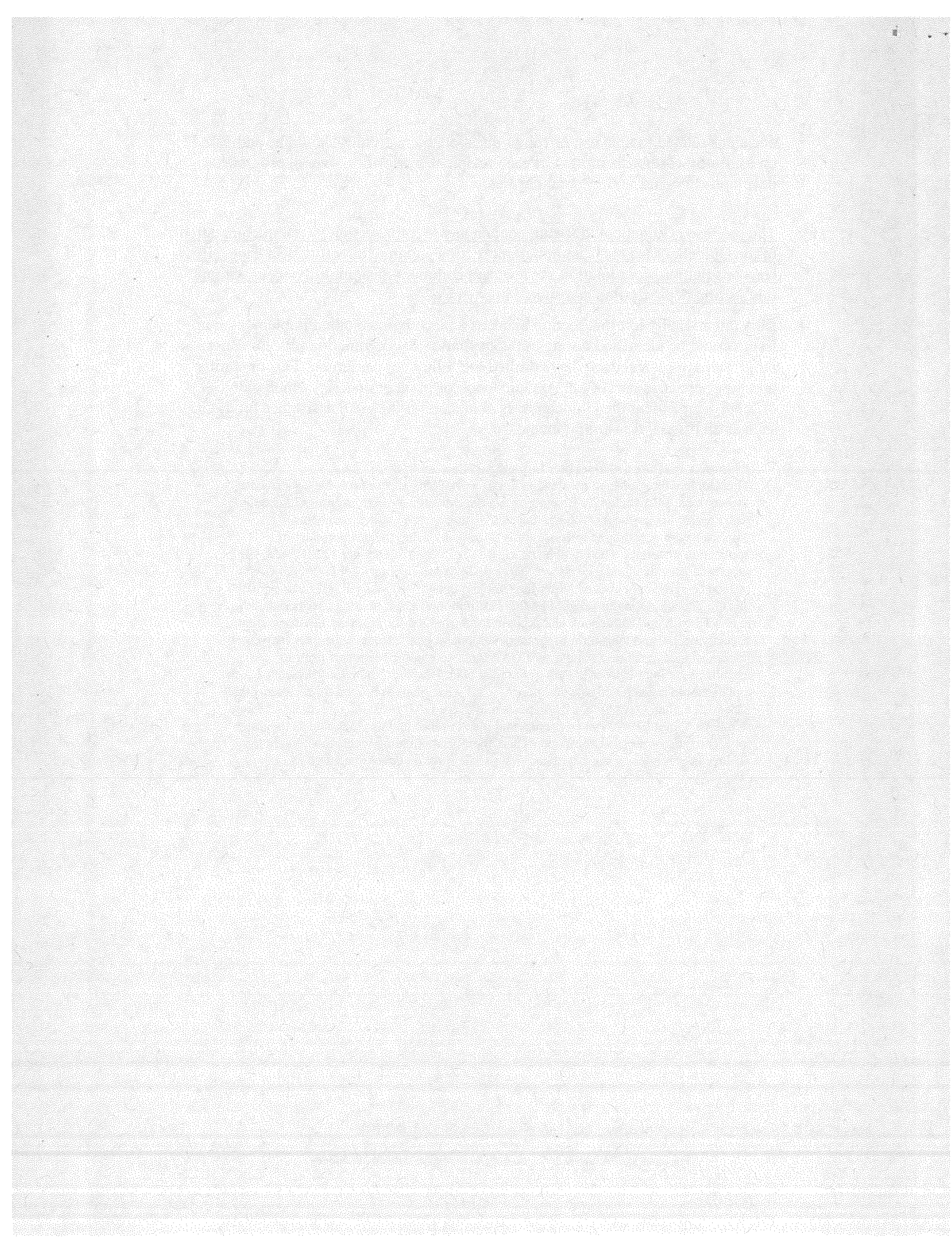
decisions related to unusual, novel, or questionable activities should be addressed on a case-by-case basis in light of each recipient's priorities, overall program development goals, and EPA authorities.

Q8: The proposed Guidebook does not contain any text for section 9.0 (Implementation of the Guidebook). This is an important section and may directly affect tribes. How can consultation, coordination, review, and comment meaningfully occur without this section being drafted and shared in advance?

A8: EPA intentionally left this section blank as a place holder so that implementation issues could be identified during our consultation & coordination process. Based on input we have received, we have drafted the following paragraph. This or similar text may appear as part of a final Guidebook or in other material which will officially implement the Guidebook as guidance for the GAP assistance program, such as an official transmittal memo.

Proposed Text for a Guidebook Implementation Section

This Guidebook applies to the negotiation of work plans and budgets for GAP awards and, as such, EPA regional office personnel are expected to reference this Guidebook when reviewing applications for financial assistance from eligible recipients. Applicants are encouraged to consult this document during the development of application materials. The Guidebook will be in effect as of October 1, 2012 and will supersede previous guidance issued March 9, 2000 and February 24, 2006. All GAP assistance agreement awarded after the Guidebook takes effect shall be in accord with this Guidebook. Decisions regarding the distribution of GAP funding to tribes shall be in accord with this Guidebook and account for a tribe's prior progress, environmental capacity needs, and long-term program development goals. Regional offices may enter into assistance agreements and award GAP funds to eligible recipients prior to establishing a joint EPA-tribal environmental plan. However, the establishment of such a plan should be included as a component in all work plans approved for recipients that lack such a plan. Over time, EPA expects that every GAP assistance agreement recipient will have a joint EPA-tribal environmental plan in place and use that plan as the basis for identifying work plan components and appropriate funding levels most likely to achieve the recipient's short-term and long-term program development goals.





Fw: Review of Indian General Assistance Program Draft Guidance

Pat Evangelista to: Grant Jonathan, Janice Whitney

09/26/2012 11:09 AM

Sorry, I meant to send this to both of you sooner.

----- Forwarded by Pat Evangelista/R2/USEPA/US on 09/26/2012 11:08 AM -----

From: George Pavlou/R2/USEPA/US
To: Gina Bonifacino/R10/USEPA/US@EPA
Cc: evangelista.pat@epa.gov
Date: 09/21/2012 04:54 PM
Subject: Review of Indian General Assistance Program Draft Guidance

The purpose of this memo is to present Region 2's comments on the revised draft Indian Environmental General Assistance Program (GAP) Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia (hereinafter "Guidance"). Originally developed as two separate documents, the *GAP Guidance* and *GAP Guidebook* were combined into one document by AIEO with the GAP Guidance serving as the principle document identifying program requirements, and the GAP Guidebook serving as an appendix providing direction on the indicators of capacity building. The comments presented in this memo will therefore be provided in four sections: (1) General Comments, (2) Guidance comments, (3) Guidebook comments, and (4) Indian Nations Comments from Previous Guidebook Consultation.

General Comments

GAP Monies for Implementation ~

At the June 2012 annual U.S. EPA Region 2 Indian Leaders Meeting between the senior management of Region 2 and the leadership of the Region 2 Indian Nations, the Indian Nations expressed their desire for a broader interpretation of the GAP Guidebook to permit the use of GAP funding for implementation beyond tribal capacity building. The GAP Guidebook has yet to fully outline the permitted usage of GAP funding for implementation of tribal programs.

It should be noted that several of the Region 2 Indian Nations have historically not applied for "Treatment as a State" status under programs such as the Clean Air Act or Clean Water Act and indicate they will make no such application in the future. In addition, four of the Region 2 Indian Nations belong to an intertribal consortium, called the Haudenosaunee Environmental Task Force (HETF), and are not eligible for most program grants, because of membership by a fifth nation that is not federally recognized. Under 40 C.F.R. Part 35, a consortium or consortia cannot apply for specific environmental program grants unless members of the consortium are federally recognized. However, only a majority of the members of the consortium need be federally recognized in order to obtain GAP funding under 40 C.F.R. Part 31. As a result, the use of GAP funding for implementation of tribal programs is essential to many of our nations. In recognition of the difficulties faced by nations within our region, Region 2 asks for greater clarification regarding the use of GAP funding for the implementation of tribal programs beyond tribal capacity building so that we may respond to the Indian Nations within our Region.

Question 8 from the Summary of Issues Raised During Consultation & Coordination Process:
Region 2 Response to Proposed Text for Implementation Section ~

Question 8 indicates that Section 9.0 of the proposed Guidebook is for “Implementation of the Guidebook” and that this section is left blank so that issues could be identified during the Agency’s consultation and coordination process. The proposed text by AIEO for the Guidebook Implementation Section requires Indian nation GAP recipients to establish a “joint EPA-tribal environmental plan (TEA)” and that “the establishment of such a plan should be included as a component in all work plans approved for recipients that lack such a plan.” It goes on further that “EPA expects that every GAP assistant agreement recipient will have a joint EPA-tribal environmental plan in place and use that plan as the basis for identifying work plan components”.

Region 2 disagrees with HQ’s plan to require GAP recipients to establish a joint-tribal environmental plan with EPA and requests that this programmatic requirement be removed. We draw your attention to the provisions of 40 CFR §35.507 - Work plans which neither requires tribal recipients to develop or adopt a TEA but instead defines how a work plan is negotiated between an applicant and the Regional Administrator and provides the requirements for an approvable work plan. Section 35.507(a) provides that work plan negotiations “reflect *consideration* of national, regional, and Tribal environmental and programmatic needs and priorities”, while Section 35.507(b) clearly provides the requirements for work plan components while not mentioning that applicants are required to have a TEA as part of a work plan. Moreover, Section 35.507(c) provides an “option” to tribal applicants to use a TEA or part of a TEA as a work plan, but again, does not require the applicant to establish one.

Region 2 acknowledges that TEAs work well for some tribes/nations (such as the St. Regis Mohawk Tribe’s PPA/PPG) while they do not for others (traditional nations of the Haudenosaunee Environmental Task Force (HETF)). Region 2 suggests that there be continued flexibility with work plan negotiations with tribal/nation applicants and that the requirement in this Guidance requiring applicants to develop TEAs or to include TEAs as part of a work plan be removed. More comments on TEAs will be provided later in this memo.

Guidance Comments

Program Background and Identifying EPA Programs and Priorities

Guidance Section 1.1 - Program Background (p. 1 of 19) and Section 3.2 Identifying EPA Programs and Priorities (p. 12 of 19)

Section 1 indicates that this Guidance has been “developed to enhance the EPA-tribal partnership supported by the GAP program, identifying a means for joint strategic planning, identification of mutual responsibilities, targeting resources..., and measuring environmental program development progress over time,” while Section 1.1 “recognizes tribal governments as the **primary parties** for setting standards, making policy decisions, and managing programs for

reservations, consistent with Agency standards and regulations". (emphasis added)

Region 2 always negotiates work plans with Indian nation applicants based on EPA strategic goals and objectives, but defers to Indian nation strategic planning as to which areas are prioritized and when. Region 2 suggests that EPA continue to recognize the Indian Nations as the "primary party" for setting standards, making decisions, and managing programs in coordination with our regional and national priorities but in deference to Nation determinations of prioritization and time for development and implementation.

Guidance section 1.3 (p. 3 of 19)

Many of our nations do not fit the suggested framework proposed by HQ for DITCAs or TAS, and we have nations actively advocating for use of Traditional Ecological Knowledge (TEK). Region 2 suggests continued regional flexibility for working with tribes/nations on environmental priorities and program areas, as well as in the identification of what indicators of capacity Region 2 will use in accordance with both national and regional priorities.

Tribal Environmental Agreements

Guidance section 1.3 (p. 2 of 19) and section 4.0 (p. 13 of 19)

Section 1.3 provides "GAP workplans must contain a component to develop one (TEA)... recipients are required to use EPA-designated program management systems in order to receive GAP funding." Region 2 requests that there be continued flexibility in determining indicators, as a majority of Region 2 nations will never get DI, TAS or agree to a DITCA, etc.

Guidance section 3 (p. 9 of 19)

The draft guidance states that "each Regional Administrator "has the flexibility to determine, in consultation with tribes, the most appropriate way to develop these workplans." Region 2 agrees with this statement.

Guidance section 3 (p. 9 of 19)

It is unclear why the guidance states that Regions may make funding decisions based on Tier III TEAs, or how that would be accomplished. For Nations not covered under a TEA, or for whom Tier III TEA development is not prioritized, how are they prevented from being negatively impacted in the funding decision process? Further clarification on this statement is requested immediately to assist in review.

Guidance section 3.1 ((p. 10 of 19)

"Regional offices should consider summarizing their activities related to each tribe on an annual basis and providing this information to the tribe." This would require much more effort from program staff, which is already overworked. Programs are in constant communication with grantees, and this is not deemed to be a necessary task.

The draft language goes back and forth between an Agreement and Tier III TEA and needs clarification.

If some form of new TEA is required, Region 9's compromise approach suggests "a document that is a Tribal Environmental Plan (prepared by the Tribe with some EPA technical assistance upon request) could receive an EPA-drafted cover memo that describes our input into the priorities identified in the document. This approach is a manageable way we can think of to tackle the significant workload presented by the TEA idea, not to mention lighten the burden on our Regional Counsel for document review.

Program Roles and Responsibilities

Guidance, section 1.4 (p. 3 of 19)

Regional Offices: "The Regional Administrator will review a complete application and either approve, conditionally approve, or disapprove it **within 60 days of receipt**. Once the application is approved, the regional office will notify the applicant that it has been formally approved and funded" (emphasis added). Region 2 finds the 60 day time schedule is not in keeping with Region 2's long-standing grants application, review and approval process. While the programs negotiate with the nations ahead of time about their work plans, when an application comes in-house, it is first circulated to the programs for their review, a Funding Recommendation has to be prepared and then concurred on by the programs, grants and finance offices before it is approved and a notification letter is transmitted by the RA indicating the award approval. In the case of a PPG (of which GAP is only a part of), the programs cannot approve their funding portion until they have the funds in-house from their NPM, and sometimes there is a lag time between the time we receive an application and the NPM funding becoming available. This applies to the GAP program as well, and last year was an example of how late the funding became available to the Regions. Noted simply to say we cannot always predict the timeframe, other than to say we know our grants must be obligated by September 30th, so suggest we simply delete the time reference.

Solid Waste Implementation

Referenced in the *cover memo- page 2 Solid Waste implementation, and page 2 of Guidance under 1.2 "Implementing waste management programs (see pp. 30-31 of Appendix I, and Guidebook sections E5 and E6)*

Potential inconsistency- in the GAP Guidance section on solid waste – activities allowable – clean up, etc... seem to be counter to draft solid waste agency-wide plan. Question is can GAP pay for it, can it not? The Tribes spoke out about IHS being the funder and not EPA – during the implementation phase. This remains an issue for tribes.

RICs/HICs asked in DC meeting with HQ, if managers can discuss this with IHS at inter-agency workgroup level, and determine the roles and responsibilities of both EPA and HIS regarding open dump cleanups.

Region 2 also wants to ensure coordinated effort by HQ OSWER on draft agency-wide solid waste implementation plan now undergoing nation-wide consultation, and OITA's intended nation-wide consultation on the GAP Guidance/Guidebook (which also discusses solid waste implementation under GAP).

Section 3.5 Negotiating Mutual Roles and Responsibilities for Environmental Program Implementation and Program Development Milestones (Guidance page 12, and Guidebook Appendix C.6.6, Protecting Ambient & Indoor Air and Appendix D.6.2, Protecting Water Quality require clarification as a whole).

If read together do they imply that GAP funding may be used for the implementation of programs beyond tribal capacity building? The revision should provide a clearer discussion of the ability to use GAP funding for implementation beyond tribal capacity building. Many of the Region 2 Nations, particularly the HETF Nations, are unable to seek program specific grants as they are limited by regulatory definition requiring all nations of the consortia to be federally recognized. As not all of the HETF Nations are federally recognized, the HETF can not apply for many program specific grants. In such cases GAP funding is the only means available to the HETF to proceed from capacity building to implementation.

Requirement for Tribal/Nation Recertification of GAP Recipients

Regions should not require tribal recertification every time a GAP grantee applies for a GAP grant. Especially where the grantee has already established certification with the Region, is meeting all required conditions under the grant, and has demonstrated successful productivity by meeting deliverables (environmental successes) under the grant. In addition to the Indian nation grantees finding this requirement overly burdensome and frustrating, they will assert that it is offensive and insulting and an infringement on tribal sovereignty. EPA knows who the governing leadership is in each Nation. In our region, we regularly interact and consult directly with them. Therefore, recertification is unnecessary. The only time recertification should be required is where a new applicant is submitting an application and workplan for the first time be required to recertify; (e.g. if Oneida were to submit a new application for GAP, the Region could require them to recertify since they haven't received GAP in a very long time).

Indicators

Guidance 7.0 – pages 15 - 19

Indicators of Capacity continue to appear focused on program delegation as an end goal, and lack a focus on enhancing the integrity of a program's own goals and operations. The "core capacity" indicators are cursory, and do not reflect the scope of functions that Nations, at least in Region 2, have identified they are undertaking on a regular basis that are eligible under the program. We believe the core capacity indicators section be improved before issuance to Nations for review. They must also be clearly stated to not be all-inclusive, and allow Regions the necessary flexibility to negotiate mutual priorities.

R2 Nations have long been the proponents of the use and incorporation of Traditional Ecological Knowledge (TEK), which will likely require flexibility and creativity as we work together to incorporate TEK into our western science modalities.

Guidance section 7 (p. 15-19)

Region 2 suggests the language stating the indicators listed are NOT all-inclusive, but merely listed as examples, and the regions maintain discretion to adopt joint indicators that suit tribal/regional needs.

Guidebook Comments

Appendix I

The structure of table of contents and rest of the appendix are inconsistent. Section numbers are in the table of contents and then the rest of the document is broken into lettered sections. This makes the document confusing to find information in the appendix and cross reference with the guidance.

Section C.1

It is stated that "TAS designations are only one indicator of successful tribal program capacity." TAS is not an indicator of successful programs, but the determination that a tribe can implement a Clean Air Act program, be eligible for reduced CAA 105 funds, or treated as an "affected State" under the operating permits program- receive notice and an opportunity to comment when neighboring States issue permits to facilities having the potential to impact tribal lands. It is recommended that this sentence be removed and the rest of the paragraph remains.

Section C.2

AFS is a tool in which the tribes can use to assess air quality and not really a program. It is not clear why it is in this section and not part of C.6.

Section C.3

This section indicates that "Once a tribe receives EPA approval for TAS, it may request delegation to implement one or more CAA program." The TAS eligibility application must include a description of the capability of the tribe to administer effectively any CAA program for which the tribe is seeking approval. If a tribe has an approved TAS application for a CAA program, they would have already been found eligible for the program which they are seeking to implement. The way the section is currently written seems to indicate that that TAS approval doesn't require a specific CAA program to be found eligible for.

Section C.5- Tribal Air Quality Program Implementation Pathways

There are references to activities in sections 4.3 and 4.4, but there are no numbered sections in the Appendix.

Section C.6 Indicators of Air Program Capacity

The manner in which the list of indicators is presented seems to indicate a hierarchy of activities (top being more important than the bottom). There are very program intensive activities listed early on that appear to hide activities that really should be considered or completed prior to activities such as promulgating regulations and developing air monitoring. Activities 6.8-6.10 (assessing indoor and outdoor air quality issues) are important activities that developing programs need to partake in long before moving into regulations and monitoring.

Section E. Managing Solid Waste, Hazardous Waste, & Underground Storage Tank Programs

Region 2 staff request adding on pg 20 of Appendix I: under key sources of program guidance, a simple sentence that a full inventory of program guidance documents is under development.

Page 25 of the Appendix: in its context (after a tribe has developed a program) the language and ideas seem consistent with agency policy/guidance which is to encourage Indian nations to develop sustainable programs. Repeat cleanup of a particular site is allowed, but only under special circumstances. The language needs clarity to better inform Indian nations on what

precisely must be in place before exceptions are considered.

In the same paragraph, there seems to be a prohibition of use of GAP funds on fee lands. This may impact all Indian nation lands in Region 2 because all Indian nation territories are fee lands (held in restrictive fee status). This might impact the Allegany Reservation of the Seneca Nation of Indians as well as many other Indian reservations. It should be mentioned that at a Tribal Solid Waste Managers' call on 9/19, HQ indicated that this language is old and that AIEO would be updating it. It is suggested that we review the new language.

Guidebook (p.25 of 44):

GAP funds should not be used to remediate unauthorized waste disposal activities on fee lands. GAP funds should also not be awarded to clean up an unauthorized trash pile at a location previously cleaned up under a prior federal assistance agreement unless special circumstances apply (such as when there is no enforcement remedy to the unauthorized waste disposal, including dumping by individuals from outside Indian country, or when an imminent health risk to a vulnerable population is reasonably anticipated). Repeat cleanups at the same location are considered recurring trash collection and disposal services to the community and are therefore not allowable under GAP."

It was reported that OSWER may no longer fund open dump cleanups (except in rare circumstances to be determined by HQ). It should be noted that open dump cleanups at Indian lands remain a high priority for Indian Nations and Region 2. We suggest further discussion of this topic at senior management level.

UST Indicators (Page 23 of 44)

In Phase I & II (underground storage tanks): Region 2 Tribal UST staff suggests adding Federal Regulatory to the second provision in this section:

"Become familiar with the major goals, programs, and FEDERAL REGULATORY requirements related to USTs in RCRA; the national structure for implementing these programs; and the EPA regional personnel and organization."

Indian Nation Comments From Previous Guidebook Consultation

Below is pp. 30-31 of the comment document provided by HQ, which included the comments provided by the Tuscarora Nation to the previous draft of the GAP Guidebook. Region 2 ORC has reviewed the revised GAP Guidance and GAP Guidebook against each of the comments made to see if the comments were addressed in the latest revision. The attached comment document includes a compilation of attorney notes against relevant comments so that you can easily see which comments were included in the latest draft and which were not. Please scroll down to Tuscarora Nation to see notes. We offer this and hope it is helpful for HQ discussions with the Region 2 Nations.

45.2 Tuscarora Nation: In Section 1.1, the Guidebook makes an assumption that implementation of U.S. environmental statutes in Indian Country may be in direct conflict of the USEPA Indian

Policy of recognizing tribal self-government, particularly where tribal governments have no interest in administering a federal U.S. statute. It is also a direct violation of the Two Row Wampum Agreement.

ORC: The Guidebook now provides more discussion on the issue of self government but does not directly speak to the issue of capacity building for self-regulated tribal programs as well. Section 1.2 as now written does not appear to discount it. This issue could be clarified through the addition of "and tribal policy/law" after "particular statute" as suggested in the comment below.

45.3 Tuscarora Nation Throughout the document the reference to "federal" programs or statutes should be deleted and, where appropriate, changed to "tribal."

ORC: Although the revision does not expressly state that GAP funds may be used for self-regulated tribal programs, Section 1.5 is an example of language added to include tribal environmental programs along with federal programs. The deletion of "federal" could not be legally done.

45.5 Tuscarora Nation: In Section 1.1, after "particular statute" the words "and tribal policy/law" should be added.

ORC: As stated above, this language was not included in the revisions, suggested this be added to the revisions.

45.8 Tuscarora Nation: In Section 1.2, the Guidebook states that "it should be interpreted as a prescription for all tribal environmental programs and is not meant to limit tribal environmental program activities to what is included in the federal statutes." The commenter asked in response why there is an assumption in the above text that GAP resources must/may/could/should implement "federal statutes." This needs to be the common purpose to GAP – tribes use Gap to research/develop/build/implement their own environmental laws/statutes.

ORC: The language within the revision of Section 1.2 appears to permit the interpretation of the use of GAP beyond the implementation of federal statutes provided GAP funding is being used to develop media-specific programs that are related to EPA statutory programs. However, as stated above the revised Guidebook does not expressly clarify that GAP funds can be used for self-regulated tribal programs.

45.10 Tuscarora Nation: In Section 2.3, the EPA cannot require financial accountability directly from the tribal government itself, only from the tribal environmental program. Tribal government finances are not subject to EPA review, nor to assessment. As such, references in the document to tribal governments should be changed to "tribal environmental programs."

ORC: Former Section 2.3 has been moved to Section B.3. of Appendix I in the revision. The indicators remain the same, however the language requiring an accounting directly from the tribal government appears to have been removed. Please note that the capacity discussion can now be found in Appendix I of the revision.

45.17 Tuscarora Nation: In response to Section 3.2, "Tribal governments have always retained sole responsibility for environmental programs. The USEPA does not have the statutory authority

to "manage statutory programs in Indian Country" simply because the Indian Nation did not "assume responsibility."

ORC: The language remains within Section 3.2 of the revision. The comment raises sovereignty issues particular to Region 2 (the Two Row Wampum Agreement and the Treaty of Canandaigua Treaty of 1794).

45.20 Tuscarora Nation: In Section 5.5, under Tribal Capacity-Building Pathways, is the note that "planning and development activities related to implementation of a water quality protection program may be eligible for funding under GAP" new?

ORC: Section now moved to Appendix I, D.6. The language in Appendix I has been revised to remove this language. However, indicators include examples beyond capacity building suggesting GAP funds could be used for implementation. Clarity should be provided.

Please let me know if you have any questions or need further information. You may also contact, Pat Evangelista, Director, Office of Strategic Programs at 212-637-4447.

George Pavlou, Deputy Regional Administrator
EPA-Region 2
Telephone:212-637-5000



Fw: R2 transmittal of comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity

Pat Evangelista to: Grant Jonathan

09/18/2012 11:17 AM

History: This message has been replied to.

As just discussed...

----- Forwarded by Pat Evangelista/R2/USEPA/US on 09/18/2012 11:17 AM -----

From: Janice Whitney/R2/USEPA/US
To: Pat Evangelista/R2/USEPA/US@EPA
Date: 09/13/2012 02:56 PM
Subject: R2 transmittal of comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity

I have prepared George's transmittal memo



Memo Transmittal of R2 Comments on the GAP Guidance and Guidebook. docx.docx



Attachment GAP Guidance and Guidebook. FINAL. R2 Comments via IPPC rep.docx (I have incorporated Grant and Argie's comments- top of p.4).

Here is the list of "cc"s

DRAs (George probably has this list)
Michael Stahl/DC/USEPA/US,

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"With one mind we address our acknowledgement, respect and gratefulness to all the sacred Cycle of Life. We, as humans, must remember to be humble and acknowledge the gifts we use so freely in our daily lives." Audrey Shenandoah, Deer Clan Mother, Onondaga Nation

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

DATE: September 13, 2012

SUBJECT: R2 Comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity.

FROM: George Pavlou, DRA
Office of the Regional Administrator, R2

TO: Gina Bonifacino
Lead Region Coordinator, National Indian Program

Attached are R2's comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity.

Our comments include our review of the R2 nations comments received in response to the initial Tribal Consultation period that ended on January 30, 2012 and the outstanding concerns that remain.

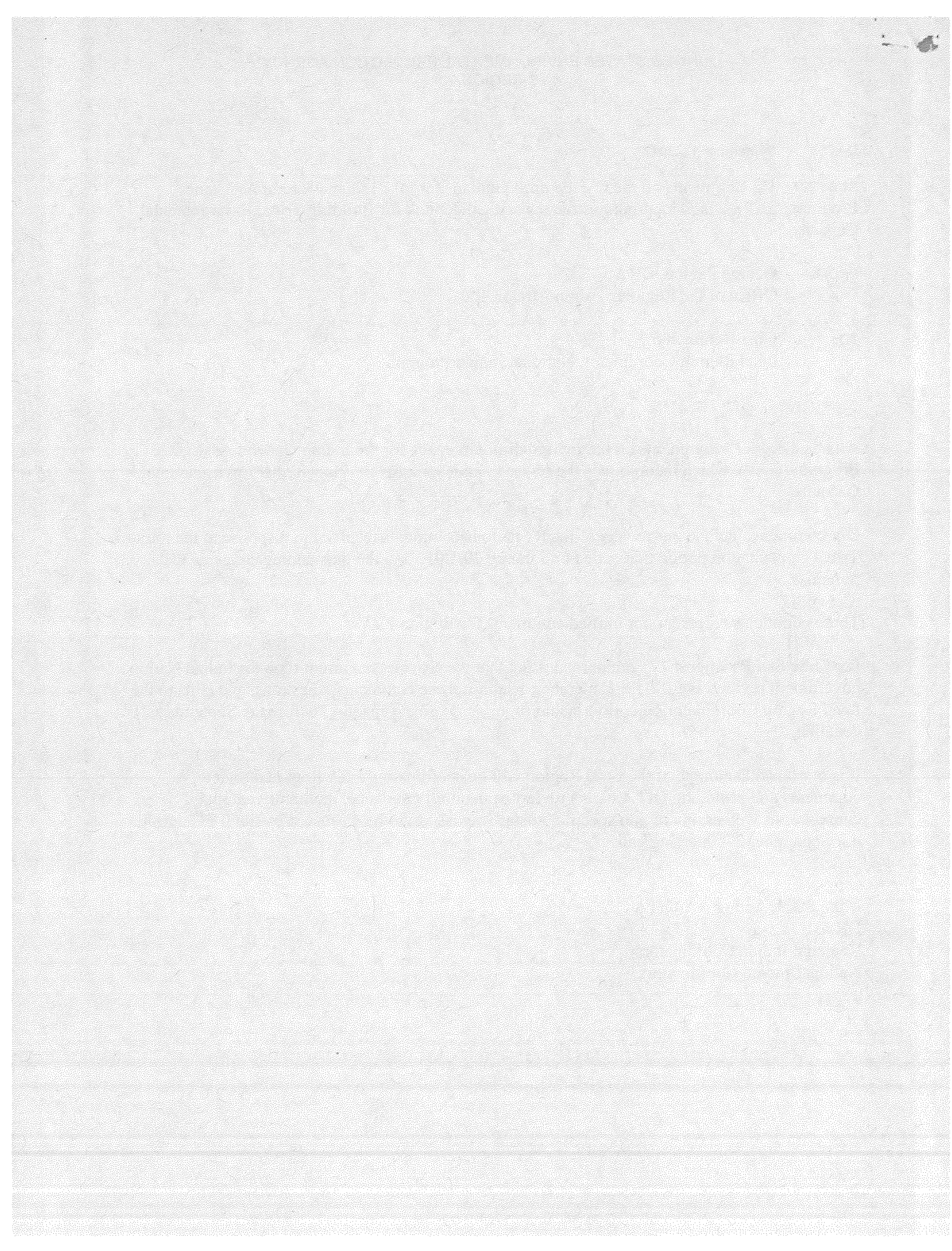
These comments represent our unified comments for Region 2.

Per Mike Stahl's August 17th email requesting that we provide maximum time for Indian Nation government review, as R2's IPPC member, I submit these comments, questions, and edits to the Lead Region Coordinator Gina Bonifacino (bonifacino.gina@epa.gov) before the September 21st deadline.

It is our understanding that the Lead Region will be coordinating EPA Regional review comments and providing OITA with a review of the draft Guidance, including regional consensus as well as any region specific outstanding issues, to be discussed by the IPPC during our September 27th meeting/call.

cc:

Mike Stahl, Acting AA/OITA
DRAs
Regional Indian Coordinators
National Indian Coordinators



Indian Environmental General Assistance Program

Region 2 Review and Comment on Guidance on
the Award and Management of General
Assistance Agreements For tribes and Intertribal
Consortia

Region 2, USEPA
9/13/2012



From: George Pavlou, R2 DRA

To: Gina Bonifacino, Lead Region Coordinator, National Indian Program (via email)

Re: R2 Review of and Comment on the GAP Guidance and Guidebook

Date: September 13, 2012

cc: Region 2 RIWG

Regarding Timeline

1. The timeline for Regional review is prohibitively short – 4 weeks for Regional review limits our ability to gain insightful opinions from our colleagues in each Division. AIEO has had this document in development for over 7 months, and now provides Regions with only 30 days instead of the promised 60 day review. (The draft timeline issued in January and statements by AIEO Management at the July budget meetings both indicated Regions would have 60 days to comment).
2. The short timeline for incorporation of Regional comments could be perceived to indicate that AIEO does not expect to make substantive changes based on Regional input.
3. The timeline for Indian Nation review is 90 days, as promised, but Nations may be quick to point out that those 90 days include the Thanksgiving, Christmas, and New Year's holidays, and that the process concludes just 4 days into the new year.

Lead for Region 2 Consultation

R2 expresses sincere thanks to AIEO's Deputy Director for attending the R2 annual leadership meetings in June 2012. A specific request was made by Neil Patterson (Tuscarora Environmental Director) for AIEO to personally come out again to consult face-to-face on the re-draft during the Sept-Dec 2012 timeframe (now Oct-Jan 2013). While R2 is willing and able to assist, because the request was made specifically to HQ, R2 requests AIEO lead the consultation in R2.

Headquarters Approval and level of Oversight

Summary of Issues Raised During Consultation & Coordination Process, Q6:

“Does the proposed Guidebook seek to limit flexibility and eliminate specific activities that have been funded in the past”

1. HQ response “decisions related to unusual, novel, or questionable activities should be addressed on a case-by-case basis in light of each recipient’s priorities, overall program development goals, and EPA authorities.”

R2 Question: decisions will be made by whom? HQ? or will regions have discretion for these determinations? Needs to be clarified and if not the latter, this likely is an issue that needs IPPC discussion.

Summary of Issues Raised During Consultation & Coordination Process, Q8:

Implementation Section Placeholder

2. HQ proposed text: “EPA expects that every GAP assistant agreement recipient will have a joint EPA-tribal environmental plan in place and use that plan as the basis for identifying work plan components and appropriate funding levels...”

See R2 comments re: TEAs

Application Submission, Review, and Award Process

Guidance 5.2.5 (p. 14 of 19)

“The degree to which the proposed activities to be funded under GAP support jointly developed EPA-tribal environmental plans...Funding decisions will be based on environmental need, progress made to date in implementing short-term workplans and achieving long-term goals.”

R2: Who decides? Regional determination? Or is HQ contemplating the ability to change funding amounts or even downgrade grantee funding? Needs to be clarified.

Application Submission, Review, and Award Process (continued)

If the latter, this likely is an issue that needs IPPC discussion. Is there any way for AIEO to let us know what HQ does not support doing in the future that had done in the past – specific activities?

Regions should not require tribal recertification every time a GAP grantee applies for a GAP grant. Especially where the grantee has already established certification with the Region, is meeting all required conditions under the grant, and has demonstrated successful productivity by meeting deliverables (environmental successes) under the grant.

In addition to the Indian nation grantees finding this requirement overly burdensome and frustrating, they will assert that it is offensive and insulting and an infringement on tribal sovereignty. EPA knows who the governing leadership is in each Nation. In our region, we regularly interact and consult directly with them. Therefore, recertification is unnecessary.

The only flip side to this is that it would not appear to be unreasonable for a new grantee to be required to recertify; (e.g. if Oneida were to submit a new application for GAP, the Region could require them to recertify since they haven't received GAP in a very long time).

Award Information and General Information

Guidance 2.0 and 2.1 (p. 4 of 19)

2.1 “Allocations are made annually via a decision memorandum from AIEO to the Regions”

R2: the previous AIEO Director (Carol Jorgensen) was moving in a direction to include the RICs in the regional allocation determinations, based on a series of comments made by the RICs. We wanted greater transparency and equity across the regions for distribution of available HQ funding, and the ability to decide among ourselves which initiatives across the country would get more HQ funding. This was also an effort to balance out the smaller Regions (1,2,4,7) not receiving as much, while we too have many national initiatives (e.g. climate change, mining,

Award Information and General Information (continued)

TEK). It was decided among the then RICs we would work towards defining a number of regional initiatives that would have a national impact, and then agree to take turns receiving funding to promote the national initiatives regionally. R2 would like to see a discussion of this resurrected.

Program Background and Identifying EPA Programs and Priorities

Section 1.1 Program Background, page 1 and Section 3.2 Identifying EPA Programs and Priorities, page 12 do not mention the sovereignty of the tribes/nations and the recognition of tribal laws and policy on Indian land. While EPA may enforce EPA's statutes the GAP document should recognize the sovereignty of tribes/nations to enforce their own laws and policy on Indian land as well. It is suggested that "tribal policy/law" be added after "particular statute" in Section 1.1. Due to the Two Row Wampum Agreement and the Treaty of Canandaigua sovereignty is of particular concern to R2 Nations as indicated in the comments received by Curtis Waterman and Neil Patterson of the HETF on the previous draft of the GAP Guidebook.

Capacity Development as a Continuing Programmatic Requirement

Guidebook, section A.3 (p. 2 of 44)

HQ: "Tribes that have successfully developed capacity in a given area may continue to receive GAP funding to expand, enhance, or evolve their capacity"

1. R2: concern this may be interpreted to imply that not all grantees will be successful? And what happens in these instances? Is HQ contemplating the ability to change funding amounts or even downgrade grantee funding? Needs to be clarified and if the latter, this likely is an issue that needs IPPC discussion.

Building Core Environmental Protection Program Capacity

Guidebook, section B.1. (p. 4 of 44)

HQ: “or a tribe may determine it no longer needs capacity building resources and would transition from GAP to other funding sources.”

1. R2: has any tribe ever “transitioned” from GAP? There is such a shortage of available funding in proportion to the vast need, that even if tribes have a PPG, aren’t they still applying for and utilizing GAP funding?
2. R2: what about the nations/tribes across the country who will never be able to obtain TAS status, or request DITCA or DI? These nations are solely reliant upon GAP for their source of environmental funding (HETF consortium in R2).
3. R2: question and concern to HQ: is there going to be a movement to cut off GAP funding for nations who do not “expand, enhance, or evolve their capacity” beyond a basic presence, as the “go to” office for environmental concerns and emergencies in their community? Needs clarification and may be a topic for IPPC.

Program Roles and Responsibilities

Guidance, section 1.4 (p. 3 of 19)

1. Regional Offices: “Any Regional supplemental guidance, policy, or criteria regions propose to apply to GAP grants awarded after the effective date of these guidelines **must be sent to AIEO Director for review and concurrence.**” (emphasis added)

R2: finds this troublesome and not in keeping with HQ statements that the Regions will have flexibility in how we manage our GAP program. This likely is an issue that needs IPPC discussion.

2. Regional Offices: “The Regional Administrator will review a complete application and either approve, conditionally approve, or disapprove it **within 60 days of receipt.** Once the application is approved, the regional office will notify the applicant that it has been formally approved and funded.” (emphasis added)

Program Roles and Responsibilities (continued)

R2: the 60 day time schedule is not in keeping with R2's long-standing grants application, review and approval process. While the programs negotiate with the nations ahead of time about their workplans, when an application comes in-house, it is first circulated to the programs for their review, a Funding Recommendation has to be prepared and then concurred on by the programs, grants and finance offices before it is approved and a notification letter is transmitted by the RA indicating the award approval. In the case of a PPG (of which GAP is only a part of), the programs cannot approve their funding portion until they have the funds in-house from their NPM, and sometimes there is a lag time between the time we receive an application and the NPM funding becoming available. This applies to the GAP program as well, and last year was an example of how late the funding became available to the Regions. Noted simply to say we cannot always predict the timeframe, other than to say we know our grants must be obligated by September 30th, so suggest we simply delete the time reference. This likely is an issue that needs IPPC discussion.

Guidance, section 1,5 Program Restrictions- Construction (p. 4 of 19)

3. HQ discusses need to sometimes rent or construct office space or buy a module building, etc, and any such request: "must be...referred to the Director of AIEO with full justification got recommended approval or non-approval."

R2: we prefer to continue as we always have, and exercise regional discretion regarding these decisions, without having to refer to HQ for justification and/or concurrence. Suggest deletion of HQ concurrence. This likely is an issue that needs IPPC discussion.

Guidance: Mutual Roles (p. 12 of 19)

4. HQ, please clarify what is meant by planning requiring coordination among media offices "and headquarters".

Program Roles and Responsibilities (continued)

5. Section 3.2 Mutual Roles and Responsibilities for Environmental Program Implementation and Program Development Milestones, page 12, Appendix C.6.6, Protecting Ambient & Indoor Air and Appendix D.6.2, Protecting Water Quality require clarification as a whole.

If read together do they imply that GAP funding may be used for the implementation of programs beyond tribal capacity building? The revision should provide a clearer discussion of the ability to use GAP funding for implementation beyond tribal capacity building. Many of the R2 Nations, particularly the HETF Nations, are unable to seek program specific grants as they are limited by regulatory definition requiring all nations of the consortia to be federally recognized. As not all of the HETF Nations are federally recognized, the HETF can not apply for many program specific grants. In such cases GAP funding is the only means available to the HETF to proceed from capacity building to implementation.

Tribal Environmental Agreements

Guidance section 1.3 (p. 2 of 19) and section 4.0 (p. 13 of 19)

1. HQ: "GAP workplans must contain a component to develop one (TEA)...recipients are required to use EPA-designated program management systems in order to receive GAP funding."

R2: rejects the notion that the HQ version of TEAs is required in R2- see discussion below. Also seek confirmation from HQ that the Regions will maintain flexibility in determining indicators, as a majority of R2 nations will never get DI, TAS or agree to a DITCA, etc. (see Indicators discussion)

Tribal Environmental Agreements (continued)

Guidance section 3 (p. 9 of 19)

2. HQ states "each Regional Administrator "has the flexibility to determine, in consultation with tribes, the most appropriate way to develop these workplans."

R2: agrees with this statement, and therefore thinks no additional documents are required by R2 nations, who already have their own form of TEAs in place.

R2 developed the Haudenosaunee Environmental Restoration Strategy: An Indigenous Strategy for Human Sustainability (HERS), which was sponsored by UNEP and presented to the United Nations in July, 1995. At that time, Janice Whitney was serving as the EPA Administrator's Special Assistant for Native Affairs and Environmental Justice, and she worked closely with AIEO's first Director Terry Williams, who together with Ms. Browner's Deputy Fred Hanson were so impressed by our Strategy, they defined the HERs as a "national model for all Indian Nations to design and implement their Tribal Environmental Agreements with EPA." (letter available upon request).

Guidance section 3 (p. 9 of 19)

3. Region 2 nations continue to express concern with a requirement for them to include additional TEA development in workplans, since they are very thorough in their workplans, which are negotiated with R2, their progress is closely monitored and they are all in compliance. In addition, there are no extra staff in R2 or the nations' environmental programs to negotiate TEAs, so the nations and R2 team (of 2) would be required to assume this additional burden to do more with less, making it highly unlikely the task could be completed within the timeframe HQ is requesting. Since these are officially negotiated documents, and each Nation is unique, we anticipate that finalization of TEAs would also likely require adequate time for ORC to review of all agreements before signature. Given the high demand on our Regional Counsel with discovery and litigation and other legal matters, this is yet another amount of time needed which would make completion of the task difficult within the timeframe HQ is asking.

4. It is unclear why the guidance states that Regions may make funding decisions based on Tier III TEAs, or how that would be accomplished. For Nations not

Tribal Environmental Agreements (continued)

covered under a TEA, or for whom Tier III TEA development is not prioritized, how are they prevented from being negatively impacted in the funding decision process? Further clarification on this statement is requested immediately to assist in review.

Guidance section 3.1 ((p. 10 of 19)

5. HQ comment: "Regional offices should consider summarizing their activities related to each tribe on an annual basis and providing this information to the tribe."

R2: This would require much more effort from program staff, which are already overworked. Programs are in constant communication with grantees, and this is an unnecessary task.

6. is HQ asking for a TEA review/approval/concurrence role now? Disagree with this requirement (see HQ Approval/Oversight and Roles and Responsibilities)

7. The language goes back and forth between an Agreement and Tier III TEA. Joint planning- need clarity

8. If some form of new TEA is required, R9's compromise approach suggests "a document that is a Tribal Environmental Plan (prepared by the Tribe with some EPA technical assistance upon request) could receive an EPA-drafted cover memo (think 1-2 pages tops) that describes our input into the priorities identified in the document. This approach is the only manageable way we can think of to tackle the significant workload presented by the TEA idea, not to mention lighten the burden on our Regional Counsel for document review."

R2 suggests this TEAs may be a topic for discussion by IPPC.

Indicators

Guidance section 1 and 1.1

1. Section 1: HQ: "joint strategic planning, identification of mutual responsibilities, targeting resources..., and measuring environmental program development progress over time" Section 1.1 HQ cites Indian policy "recognizes tribal governments as the **primary parties** for setting standards, making policy decisions, and managing programs for reservations, consistent with Agency standards and regulations". (emphasis added)

R2: we have always negotiated our workplans based on our strategic goals and objectives, but defer to the nation's strategic planning as to which areas are prioritized when. Suggest respect for continuing to recognize the Indian Nations remain the "primary party" to set standards, make decisions and manage programs, of course in coordination with our regional and national priorities but in deference to Nation determinations of prioritization and time for development and implementation.

2. Indicators of Capacity continue to appear focused on program delegation as an end goal, and lack a focus on enhancing the integrity of a program's own goals and operations. The "core capacity" indicators are cursory at best, and do not reflect the scope of functions that Nations, at least in Region 2, identified they are undertaking on a regular basis that are eligible under the program. We believe the core capacity indicators section must be improved before issuance to Nations for review. They must also be clearly stated to not be all-inclusive, and allow Regions the necessary flexibility to negotiate mutual priorities.

3. R2 Nations have long been the proponents of the use and incorporation of Traditional Ecological Knowledge (TEK), which will likely require flexibility and creativity as we work together to incorporate TEK into our western science modalities.

Guidance section 1.3 (p. 3 of 19)

4. since our nations do not fit the framework proposed by HQ- of DITCAs, DI, TAS, and we have nations actively advocating for use of Traditional Ecological

Indicators (continued)

Knowledge (TEK), we require Regional flexibility to decide what indicators we can agree to with R2 nations (not a specific list HQ determines and approves).

Guidance section 7 (p. 15-19)

5. R2 suggests the language stating the indicators listed are NOT all-inclusive, but merely listed as examples, and the regions maintain discretion to adapt joint indicators that suit tribal/regional needs (but not necessarily in synch timewise with HW).

6. what about nations just starting up? They do not have the requisite KSAs listed in B.2.2

7. rather than the extensive list of indicators, suggest BIA “federally recognized” criteria be used as the basic indicators necessary to obtain environmental capacity-building funds from EPA.

8. Indicators in Guidebook and Guidance – is there a way to list these once instead of twice, is there a way to simplify?

Solid Waste Implementation

Referenced in the *cover memo- page 2 Solid Waste implementation; and page 2 of Guidance under 1.2 "Implementing waste management programs (see pp. 30-31 of Appendix I, and Guidebook sections E5 and E6)*

1. Potential inconsistency- in the GAP Guidance section on solid waste – activities allowable – clean up, etc... seem to be counter to draft solid waste agency-wide plan. Question is can GAP pay for it, can it not?

The Tribes spoke out about IHS being funder and not EPA – during the implementation phase. This remains an issue for tribes.

Solid Waste Implementation (continued)

R2 program asks:

- (1) "how many clean-ups of open dumps has IHS funded in Region 2 to date?"
- (2) "what is the mechanism to request funding of IHS for open dump clean-ups?"

RICs/HICs asked in DC meeting with HQ, if managers can discuss this with IHS at inter-agency workgroup level, and determine the roles and responsibilities of both EPA and HIS regarding open dump cleanups.

2. Want to ensure coordinated effort by HQ OSWER on draft agency-wide solid waste implementation plan now undergoing nation-wide consultation, and OITA's intended nation-wide consultation on the GAP Guidance/Guidebook (which also discusses solid waste implementation under GAP).

Guidebook (p.25 of 44):

"GAP funds should not be used to remediate unauthorized waste disposal activities on fee lands. GAP funds should also not be awarded to cleanup an unauthorized trash pile at a location previously cleaned up under a prior federal assistance agreement unless special circumstances apply (such as when there is no enforcement remedy to the unauthorized waste disposal, including dumping by individuals from outside Indian country, or when an imminent health risk to a vulnerable population is reasonably anticipated). Repeat cleanups at the same location are considered recurring trash collection and disposal services to the community and are therefore not allowable under GAP."

3. R2. During the DRA briefing, HQ indicated the AA of OSWER has decided solid waste implementation under GAP will no longer include open dump cleanups (except in rare circumstances to be determined by HQ). R9 requested regional political appointees be involved in this discussion before any final determination is made, and R2's rep also noted our DRA would have more to say about this matter. Open dump cleanup remains a priority for R2 nations. May be an IPPC agenda item for discussion.

Environmental Justice:

Guidance- section 3.0 and Principle #7, under "Guiding Principles," TEA 1995 Template, (p.2)

EJ is included as a guiding principle in the TEA 1995 Template

EJ is also referenced throughout indicators- e.g. B.2.6 requiring written procedures similar to the Administrative Procedure Act to ensure meaningful involvement and fair treatment in public participation

1. R2: Sovereignty concern. Nations that have their own internal customs and processes for public hearing that are in accordance with their traditions, may see the proposed EJ Policy (and references to it contained in the TEA) as a threat of outside interference, since the number one goal, for some of the tribal nations when making decisions, is to protect the nation, its people, its land, and especially its sovereignty. [For example, the Haudenosaunee, frequently refer to the provisions in their treaty that indicate the "U.S.' acknowledgment of no interference in Haudenosaunee affairs and that the Six Nations may exist upon their land in peace without interference."] See Comment submitted to EJWG

Review of R2 nation comments previously made

I have also attached a copy of pp. 30-31 of the comment document provided by HQ, which included the comments provided by the Tuscarora Nation to the previous draft of the GAP Guidebook. R2 ORC has reviewed the revised GAP Guidebook against each of the comments made to see if the comments were addressed in the latest revision. The attached comment document includes a compilation of attorney notes against each comment so that you can easily see which comments were included in the latest draft and which were not. Please scroll down to Tuscarora Nation to see notes. We offer this and hope it is helpful for HQ discussions with R2 Nations.

pp. 30-31 Commenter – Tribal Government Issue: Tuscarora Nation (p.1)

45.1 Tuscarora Nation Guidebook title should be changed from “Guidebook for Building Tribal Environmental Capacity to “Guidebook for Building Indigenous Nation Environmental Capacity.”

ORC: Tuscarora comment to use " Indigenous Nations" rather than "Tribal" in the title was not made.

45.2 Tuscarora Nation In Section 1.1, the Guidebook makes an assumption that implementation of U.S. environmental statutes in Indian Country may be in direct conflict of the USEPA Indian Policy of recognizing tribal selfgovernment, particularly where tribal governments have no interest in administering a federal U.S.statute. It is also a direct violation of the Two Row Wampum Agreement.

ORC: The Guidebook now provides more discussion on the issue of self government but does not directly speak to the issue of issue of capacity building for self-regulated tribal programs as well. Section 1.2 as now written does not appear to discount it. This issue could be clarified through the addition of "and tribal policy/law" after "particular statute" as suggested in the comment below.

45.3 Tuscarora Nation Throughout the document the reference to “federal” programs or statutes should be deleted and, where appropriate, changed to “tribal.”

ORC: Although the revision does not expressly state that GAP funds may be used for self-regulated tribal programs, Section 1.5 is an example of language added to include tribal environmental programs along with federal programs. The deletion of "federal" could not be legally done.

45.4 Tuscarora Nation In Section 1.1 the text “build environmental program capacity for tribes that, for whatever reason, are not currently able to implement federally authorized regulatory and enforcement program. This helps EPA” should be deleted.

ORC: The revisions did not delete this statement, however the statement should not be deleted.

Commenter – Tribal Government Issue: Tuscarora Nation (p.2)

45.5 Tuscarora Nation In Section 1.1, after “particular statute” the words “and tribal policy/law” should be added.

ORC: As stated above, this language was not included in the revisions, suggested this be added to the revisions.

45.6 Tuscarora Nation In Section 1.1, the phrase “across the various federal statutes” should be deleted.

ORC: Phrase deleted in revision

45.7 Tuscarora Nation In Section 1.2 the reference to “EPA media-specific programs” should be changed to “media-specific programs” and the phrase “or assuming federal authorities” should be deleted.

ORC: Phrase deleted in revision

45.8 Tuscarora Nation In Section 1.2 the Guidebook states that “it should be interpreted as a prescription for all tribal environmental programs and is not meant to limit tribal environmental program activities to what is included in the federal statutes.” The commenter asked in response why there is an assumption in the above text that GAP resources must/may/could/should implement “federal statutes.” This needs to be the common purpose to GAP – tribes use Gap to research/develop/build/implement their own environmental laws/statutes.

ORC: The language within the revision of Section 1.2 appears to permit the interpretation of the use of GAP beyond the implementation of federal statutes provided GAP funding is being used to develop media-speciific programs that are related to EPA statutory programs. However, as stated above the revised Guidebook does not expressly clarify that GAP funds can be used for self-regulated tribal programs.

Commenter – Tribal Government Issue: Tuscarora Nation (p.3)

45.9 Tuscarora Nation Throughout the Guidebook

ORC: Mandatory language remains in the revision.

45.10 Tuscarora Nation In Section 2.3, the EPA cannot require financial accountability directly from the tribal government itself, only from the tribal environmental program. Tribal government finances are not subject to EPA review nor assessment. As such, references in the document to tribal governments should be changed to “tribal environmental programs.”

ORC: Former Section 2.3 has been moved to Section B.3. of Appendix I in the revision. The indicators remain the same, however the language requiring an accounting directly from the tribal government appears to have been removed. Please note that the capacity discussion can now be found in Appendix I of the revision.

45.11 Tuscarora Nation In Section 2.4, the “National Environmental Information Exchange Network” should be changed to “an Information Exchange Network.”

ORC: Section deleted in revision. The name was not changed and remains within Appendix 1, .4.4. Indicators of Information Management Capacity

45.12 Tuscarora Nation The Indicators of Capacity in Section 2.7 are ridiculous. This is not an indicator of capacity and is rather a legal mandate from one government to another. The USEPA does not have the federal authority to require these “authority” statement(s).

ORC: Former 2.7 Legal Section, has been moved to Section B.7. of the Introduction and remains unchanged. . The indicators speak to legal capacity to implement federal requirements and take delegation of federal requirements rather than to tribes wishing to enforce only tribal law and policy. Tribal enforcement authority may be a more fitting discussion during specific program approvals rather than at GAP capacity building. If GAP funds may be used for

Commenter – Tribal Government Issue: Tuscarora Nation (p.4)

implementation of specific programs tribal enforcement authority might be discussed during work plan approval depending on the specific project involved.

45.13 Tuscarora Nation In Section 2.8, the indicator of “establishing intergovernmental agreements with other jurisdictions,” is not a useful indicator of capacity. Indian Nation governments have too varied an interest/applicability in developing intergovernmental agreements.

ORC: The indicators of capacities language in former Section 2.8 remain unchanged. This section is now Section B.8. of Appendix I the revision.

45.14 Tuscarora Nation Section 2.9 details a “national system of environmental protection,” but the tribe often does not want to participate in “a national system.”

ORC: The language has been deleted.

45.15 Tuscarora Nation In Section 2.11, what defines membership? Intertribal consortia may have multiple types of “membership”; from a general alliance to a financial partner/ supporter. When “partnership” is mentioned later in this paragraph, is that different than membership?

ORC: "Membership" is somewhat different from "partnership" in that "membership" applies to those tribes/nations taking part in the consortia while "partnership" applies to an agreement between tribes/nations to create a consortia. Look to 40 C.F.R. Part 35, Subpart B. The language in the revision remains similar.

45.16 Tuscarora Nation In Section 3.1 the phrase “fully implemented” should be changed to “implemented.”

ORC: Phrase deleted.

Commenter – Tribal Government Issue: Tuscarora Nation (p.5)

45.17 Tuscarora Nation In response to Section 3.2, “Tribal governments have always retained sole responsibility for environmental programs. The USEPA does not have the statutory authority to “manage statutory programs in Indian Country” simply because the Indian Nation did not “assume responsibility.”

ORC: The language remains within Section 3.2 of the revision. The comment raises sovereignty issues particular to Region 2 (the Two Row Wampum Agreement and the Treaty of Canandaigua Treaty of 1794).

45.18 Tuscarora Nation In Section 3.3, “regulated facilities” should be changed to “U.S. regulated facilities.” Also, “are applicable” should be changed to “may apply.”

ORC: Change not made in revision.

45.19 Tuscarora Nation In Section 4.5, under Tribal Implementation Pathways, the words “under tribal authority” should be deleted.

ORC: Ambient & Indoor Air Capacity section moved to Appendix I , C.6. Language deleted from Section.

45.20 Tuscarora Nation In Section 5.5, under Tribal Capacity-Building Pathways, is the note that “planning and development activities related to implementation of a water quality protection program may be eligible for funding under GAP” new?

ORC: Section now moved to Appendix I, D.6. The language in Appendix I has been revised to remove this language. However, indicators include examples beyond capacity building suggesting GAP funds could be used for implementation. Clarity should be provided.

Commenter – Tribal Government Issue: Tuscarora Nation (p.6)

45.21 Tuscarora Nation In Appendix 10.2 the Guidebook mentions creating an easily accessible archive of GAP work plans and progress reports. To whom is this to be accessible? There may be protected or privileged information in this “archive.”

ORC: Appendix and language deleted.

45.22 Tuscarora Nation Appendix 10.3 references treating tribes as states. This is not consistent with a treaty relationship between two sovereigns. Tribes have never asked the U.S. to prove its status as a sovereign. Clear violation of the two-row wampum.

ORC: Appendix and language deleted.

Re: Fw: R2 transmittal of comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity Grant Jonathan

to:

Pat Evangelista

09/20/2012 11:09 AM

Hide Details

From: Grant Jonathan/R2/USEPA/US

To: Pat Evangelista/R2/USEPA/US@EPA,

3 Attachments



Memo Transmittal of R2 Comments on the GAP Guidance and Guidebook. docx.docx



GAP Guidance and Guidebook. FINAL. R2 Comments via IPPC rep.docx



MM from R2 DRA to GB re Draft GAP Guidance_Sept 2012.docx

Pat,

Revisions to this memo have been made as requested. I also included last minute comments from Regional Indian Work Group members (received just yesterday).

First, I put all comments in order based upon the table of contents. As I indicated, it was chaotically drafted without any order or structure. It looks better now.

I left most of the original info in. At about page four, you will see I got tired of rewriting things. So from Page four on, I left the memo as is and made small necessary revisions to make it sound as diplomatic as possible.

The memo starts with general comments, followed by Guidance comments, then Guidebook comments (an appendix in the Guidance), and ended with Indian nation comments. The first paragraph clarifies this.

Hope this helps.

~~~~~  
Grant W. Jonathan  
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Office of Strategic Programs - Indian Program  
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-----Pat Evangelista/R2/USEPA/US wrote: -----

To: Grant Jonathan/R2/USEPA/US@EPA

From: Pat Evangelista/R2/USEPA/US

Date: 09/18/2012 11:17AM

Subject: Fw: R2 transmittal of comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity

As just discussed...

----- Forwarded by Pat Evangelista/R2/USEPA/US on 09/18/2012 11:17 AM -----

From: Janice Whitney/R2/USEPA/US

To: Pat Evangelista/R2/USEPA/US@EPA

Date: 09/13/2012 02:56 PM

Subject: R2 transmittal of comments on the revised draft Guidance for the Indian General Assistance Program (GAP), which incorporates the revised Guidebook for Building Tribal Environmental Capacity

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I have prepared George's transmittal memo (*See attached file: Memo Transmittal of R2 Comments on the GAP Guidance and Guidebook. docx.docx*)

Attachment (See attached file: GAP Guidance and Guidebook. FINAL. R2 Comments via IPPC rep.docx) (I have incorporated Grant and Argie's comments- top of p.4).

Here is the list of "cc"s

DRAs (George probably has this list)  
Michael Stahl/DC/USEPA/US,

RICs:

Lois Adams/R1/USEPA/US@EPA

Michael Stover/R1/USEPA/US@EPA

Janice Whitney/R2/USEPA/US@EPA

Theresa Gallagher/R3/USEPA/US@EPA

Lisa Berrios/R4/USEPA/US

Darrel Harmon/R5/USEPA/US

Randy Gee/R6/USEPA/US@EPA

Jeannine Hale/R6/USEPA/US@EPA

George Craft/R6/USEPA/US@EPA

Wolfgang Brandner/R7/USEPA/US@EPA

Alfreda Mitre/R8/USEPA/US@EPA

Laura Ebbert/R9/USEPA/US@EPA

Sally Thomas/R10/USEPA/US@EPA

HICs:

Jonathan Binder/DC/USEPA/US@EPA

Felicia Wright/DC/USEPA/US@EPA

Darrel Harmon/DC/USEPA/US@EPA



Caren Robinson/DC/USEPA/US@EPA  
Fran Jones/DC/USEPA/US@EPA  
Monica Rodia/DC/USEPA/US@EPA  
Elizabeth Jackson/DC/USEPA/US@EPA

Janice Whitney, Esq.

Regional Indian Coordinator, Consultation Advisor and Environmental Affairs Specialist  
Indigenous Program, Director's Office, Division of Environmental Planning & Protection  
U.S. Environmental Protection Agency, 290 Broadway, 25th Floor, NY, NY 10007  
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Fax: 212-637-3772 email: whitney.janice@epa.gov

"With one mind we address our acknowledgement, respect and gratefulness to all the sacred Cycle of Life. We, as humans, must remember to be humble and acknowledge the gifts we use so freely in our daily lives." Audrey Shenandoah, Deer Clan Mother, Onondaga Nation





**Fw: Summary of Comments on GAP Guidance**

Grant Jonathan to: Pat Evangelista

09/26/2012 03:06 PM

Regional summary of all regions on draft GAP Guidance. Region 2 summary is included as well in the attachment.

~~~~~  
Grant W. Jonathan
U.S. Environmental Protection Agency - Region 2
Office of Strategic Programs - Indian Program
290 Broadway
New York, NY 10007
212.637.3843 (phone)
917.304.4149 (awl)
212.637.3772 (fax)
Email: jonathan.grant@epa.gov
~~~~~

----- Forwarded by Grant Jonathan/R2/USEPA/US on 09/26/2012 03:04 PM -----

From: Rodges Ankrah/DC/USEPA/US  
To: Stacey Johnson/R1/USEPA/US@EPA, Grant Jonathan/R2/USEPA/US@EPA, Betty Winter/R4/USEPA/US@EPA, Barbara Mack/R5/USEPA/US@EPA, Ira Hight/R6/USEPA/US@EPA, Curtis Hicks/R6/USEPA/US@EPA, Fincher Harris/R6/USEPA/US@EPA, Heather Hamilton/R7/USEPA/US@EPA, Dale Roy/R8/USEPA/US@EPA, Blake Huff/R8/USEPA/US@EPA, Veronica Swann/R9/USEPA/US@EPA, Diana Boquist/R10/USEPA/US@EPA, Catherine Villa/R10/USEPA/US@EPA  
Cc: David Jones/DC/USEPA/US@EPA  
Date: 09/26/2012 03:01 PM  
Subject: Fw: Summary of Comments on GAP Guidance

---

Rodges Ankrah  
(202) 564-0280  
Fax: (202) 564-0298  
<http://www.epa.gov/indian>

----- Forwarded by Rodges Ankrah/DC/USEPA/US on 09/26/2012 02:54 PM -----

From: Gina Bonifacino/R10/USEPA/US  
To: Alan Moomaw/R10/USEPA/US@EPA, Alfreda Mitre/R8/USEPA/US@EPA, Curtis Hicks/R6/USEPA/US@EPA, Gregory Phillips/R8/USEPA/US@EPA, Janice Whitney/R2/USEPA/US@EPA, Jeannine Hale/R6/USEPA/US@EPA, Kestutis Ambutas/R5/USEPA/US@EPA, Michael Stover/R1/USEPA/US@EPA, Nate Lau/R9/USEPA/US@EPA, Pamela Overman/R9/USEPA/US@EPA, Randy Gee/R6/USEPA/US@EPA, Sally Thomas/R10/USEPA/US@EPA, Theresa Gallagher/R3/USEPA/US@EPA, Wolfgang Brandner/R7/USEPA/US@EPA, Lisa Berrios/R4/USEPA/US@EPA, Laura Ebbert/R9/USEPA/US@EPA, George Craft/R6/USEPA/US@EPA, Darrel Harmon/R5/USEPA/US@EPA, Jonathan Binder/DC/USEPA/US@EPA, Felicia Wright/DC/USEPA/US@EPA, Caren Robinson/DC/USEPA/US@EPA, Fran Jones/DC/USEPA/US@EPA, Monica Rodia/DC/USEPA/US@EPA, Elizabeth Jackson/DC/USEPA/US@EPA, Gina Bonifacino/R10/USEPA/US@EPA, Andrew Baca/DC/USEPA/US@EPA, Pat Childers/DC/USEPA/US@EPA, Danny Gogal/DC/USEPA/US@EPA, Erika Wilson/DC/USEPA/US@EPA  
Cc: Karin Koslow/DC/USEPA/US@EPA, Luke Jones/DC/USEPA/US@EPA, Kate Kelly/R10/USEPA/US@EPA, Rodges Ankrah/DC/USEPA/US@EPA, Ed Liu/DC/USEPA/US@EPA, Andrew Byrne/DC/USEPA/US@EPA, David Jones/DC/USEPA/US@EPA, George Craft/R6/USEPA/US@EPA



Date: 09/24/2012 05:29 PM  
Subject: Summary of Comments on GAP Guidance

---

Hi all:

Please see the attached table that summarizes all of the major comments I have received on the GAP Guidance. I attempted to further distill the comments where more discussion and/or revisions may be needed into topical areas in the summary below.

I want to note that many regions commented that this version was responsive to many of the issues raised the first round of internal review/discussion and improved upon the first version.

If you have concerns about how I have characterized any of this in my "translation" please let me know ASAP.

Thank you!

Gina



Status report and summary of GAP Guidance Comments\_9.21.12.docx

## **Summary: Major Topics of Comments on suggested Revisions Received from the Regions on GAP Guidance**

### **1. Environmental presence**

Document should put equivalent weight on GAP funding to support tribes participating in the environmental process and building their own programs based on tribal priorities (Environmental presence) with GAP funding to support tribes in building regulatory programs. (R01, R10)

### **2. Tribal Environmental Agreements**

- OK with TEAs - R1, R05, R06, R07. Region 4 is ok with them if there is flexibility (like a R09 approach)
- TEAS should not be required - Resource concerns, ok for some tribes, but still want flexibility to focus on areas tribes have identified as important as a starting point not a laundry list of every EPA regulatory program (if flexibility to include broader capacity indicators and could use a R09 type of approach to planning which is a tribally prepared plan and an EPA cover memo stating EPA nexus) R02, R08, R09, R10.

### **3. Solid Waste**

Concerns GAP funding not being available to support open dump cleanup - R01, R02, R08, R09

### **4. Clarity of document**

R02, R04, R08, R09 and R10 had some significant comments on the clarity of the

document. For example, it was not clear how funding would be connected to capacity indicators, what capacity indicators are allowed or not allowed (only those listed in the GB?) and how are those tied to performance indicators and funding (Will tribes planning with capacity indicators not in the GB still receive GAP funding? At what level?)

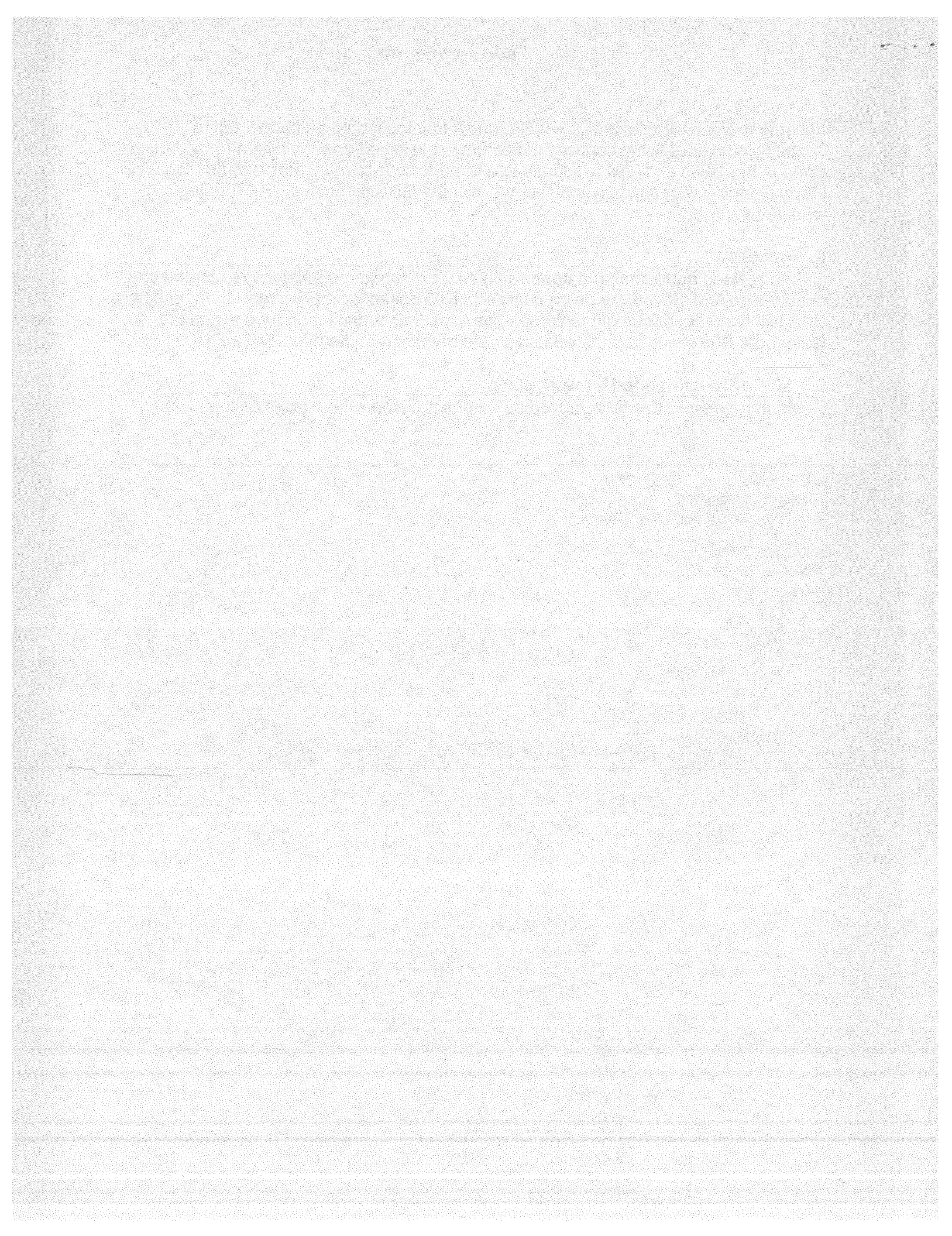
#### 5. Process

R09 requested more time and opportunity to view supplemental documents and any changes go to IPPC before being finalized. R05 asked for more information on how EPA will bring the document to completion including consultation process on the Guidance, R06 requested the effective date not occur in the middle of a FY

#### 6. 60 Day review period for work plans

Regions requested this be removed as it does not work with current timing (1,2)

Gina Bonifacino  
Lead Region Coordinator  
Office of International and Tribal Affairs  
EPA Region 10  
Suite 900, ETPA 085  
1200 6th Ave  
Seattle, WA 98101  
206.553.2970  
206.310.8518 (cell)







**Fw: 2 or 2 APRIL emails on ONEida MOA Fw: Copies of latest Oneida UST Inspection and Registration Forms?**

Grant Jonathan to: Pat Evangelista, George Pavlou

07/03/2012 09:43 AM

~~~~~  
Grant W. Jonathan
Indian Nation Environmental Affairs
U.S. Environmental Protection Agency - Region 2
Division of Environmental Planning & Protection
Director's Office
290 Broadway, 25th Floor
New York, NY 10007
(212) 637-3843 (phone)
(917) 304-4149 (awl)
(212) 637-3772 (fax)
Email: jonathan.grant@epa.gov
~~~~~

----- Forwarded by Grant Jonathan/R2/USEPA/US on 07/03/2012 09:42 AM -----

From: Rebecca Jamison/R2/USEPA/US  
To: George Meyer/R2/USEPA/US@EPA  
Cc: Grant Jonathan/R2/USEPA/US@EPA  
Date: 07/03/2012 09:13 AM  
Subject: 2 or 2 APRIL emails on ONEida MOA Fw: Copies of latest Oneida UST Inspection and Registration Forms?

Here is a second relevant email. Janice suggests talking with Meghan to get Ray Halbritter's signature prior to the meeting and then having the RA sign it at the meeting.  
I responded positively.

.....  
Rebecca Jamison USEPA Region 2, DECA-UST Team 20th Floor, 290 Broadway, New York, NY 10007- 1866  
voice: 212-637-3948 fax 212-637-4211  
R2 UST website: <http://www.epa.gov/region02/ust/>



United States Environmental Protection Agency

----- Forwarded by Rebecca Jamison/R2/USEPA/US on 07/03/2012 09:12 AM -----

From: Rebecca Jamison/R2/USEPA/US  
To: Janice Whitney/R2/USEPA/US  
Date: 04/25/2012 01:23 PM  
Subject: Re: Fw: Copies of latest Oneida UST Inspection and Registration Forms?

Yes. I still need the two attachment to even begin routing the package. Neither she nor Mark responded. I think advising her we'd like to sign at the June meeting is a good idea.  
merci!

~~~~~  
Rebecca Jamison
US EPA Region 2
Division of Enforcement and Compliance Assistance

UST Team
290 Broadway- 20th floor
New York, NY 10007
(212) 637-3948 (phone)
(917) 464-5583 Alternate Phone for Mon & Wed only
(212) 637-4211 (fax)
R2 UST webpage:
www.epa.gov/region02/ust
~~~~~

Janice Whitney

still need these? also, shall I suggest Meghan g...

04/25/2012 01:10:51 PM

From: Janice Whitney/R2/USEPA/US  
To: Rebecca Jamison/R2/USEPA/US@EPA  
Date: 04/25/2012 01:10 PM  
Subject: Re: Fw: Copies of latest Oneida UST Inspection and Registration Forms?

---

still need these?

also, shall I suggest Meghan gets Ray's signature before the annual, and advise her RA will sign it during leaders session Wed am June 27th?

Janice Whitney, Esq.  
Regional Indian Coordinator, Consultation and Environmental Affairs Specialist  
Indigenous Program, Director's Office, Division of Environmental Planning & Protection  
U.S. Environmental Protection Agency, 290 Broadway, 25th Floor, NY, NY 10007  
Phone: 212-637-3790 Monday-Thursday (Do Not Work Fridays)  
Fax: 212-637-3772 email: [whitney.janice@epa.gov](mailto:whitney.janice@epa.gov)

"With one mind we address our acknowledgement, respect and gratefulness to all the sacred Cycle of Life. We, as humans, must remember to be humble and acknowledge the gifts we use so freely in our daily lives." Audrey Shenandoah, Deer Clan Mother, Onondaga Nation

Rebecca Jamison

Janice--I have George's comments and am read...

04/24/2012 04:36:03 PM



**Fw: Third Email - draft MOA cover memo (and MOA from January 2012 revision)**

Grant Jonathan to: Pat Evangelista, George Pavlou

07/03/2012 09:44 AM

FYI.

-----  
Grant W. Jonathan  
Indian Nation Environmental Affairs  
U.S. Environmental Protection Agency - Region 2  
Division of Environmental Planning & Protection  
Director's Office  
290 Broadway, 25th Floor  
New York, NY 10007  
(212) 637-3843 (phone)  
(917) 304-4149 (awl)  
(212) 637-3772 (fax)  
Email: jonathan.grant@epa.gov  
-----

----- Forwarded by Grant Jonathan/R2/USEPA/US on 07/03/2012 09:43 AM -----

From: Janice Whitney/R2/USEPA/US  
To: Rebecca Jamison/R2/USEPA/US@EPA  
Cc: Grant Jonathan/R2/USEPA/US@EPA, Jeff Gratz/R2/USEPA/US@EPA  
Date: 04/25/2012 10:12 AM  
Subject: Re: - draft MOA cover memo (and MOA from January 2012 revision)

---

yes Grant, we forgot to discuss this yesterday when we were catching up..

whenever we have something significant like this, we have the signing ceremony during the annual meeting.

I will coordinate with Oneida to already have ray's signature on it, but Meghan and Clint (on Oneida's Men's council) will be present when Judith signs it, and we can take a picture of them all as well, so please do give this "signing ceremony" 5 minutes (maybe replace that HQ person or if she is coming, just add another 5 minutes to RA time frame?)

Janice Whitney, Esq.  
Regional Indian Coordinator, Consultation and Environmental Affairs Specialist  
Indigenous Program, Director's Office, Division of Environmental Planning & Protection  
U.S. Environmental Protection Agency, 290 Broadway, 25th Floor, NY, NY 10007  
Phone: 212-637-3790 Monday-Thursday (Do Not Work Fridays)  
Fax: 212-637-3772 email: whitney.janice@epa.gov

"With one mind we address our acknowledgement, respect and gratefulness to all the sacred Cycle of Life. We, as humans, must remember to be humble and acknowledge the gifts we use so freely in our daily lives." Audrey Shenandoah, Deer Clan Mother, Onondaga Nation

Rebecca Jamison FYI--below is the UST MOA in its final form. I ho...

04/18/2012 11:09:40 AM

From: Rebecca Jamison/R2/USEPA/US  
To: Janice Whitney/R2/USEPA/US@EPA



Cc: Grant Jonathan/R2/USEPA/US@EPA  
Date: 04/18/2012 11:09 AM  
Subject: - draft MOA cover memo (and MOA from January 2012 revision)

---

FYI--below is the UST MOA in its final form. I hope to start routing in signature within in the next two weeks.

Grant--if it is signed, in time, should we put something on the June agenda--5-10 mins noting it---Ray doesn't normally attend the meetings just Meghan and staff, or so I recall--

Not sure how to arrange all this...

~~~~~  
Rebecca Jamison
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Division of Enforcement and Compliance Assistance
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(917) 464-5583 Alternate Phone for Mon & Wed only
(212) 637-4211 (fax)
R2 UST webpage:
www.epa.gov/region02/ust
~~~~~

----- Forwarded by Rebecca Jamison/R2/USEPA/US on 04/18/2012 11:07 AM -----

From: Rebecca Jamison/R2/USEPA/US  
To: George Meyer/R2/USEPA/US@EPA, William Sawyer/R2/USEPA/US@EPA  
Cc: Rebecca Jamison/R2/USEPA/US@EPA  
Date: 04/18/2012 11:07 AM  
Subject: REVIEW - draft MOA cover memo (and MOA from January 2012 revision)

---

Here is the draft MOA recommendation memo. I based this on the most recent Briefing we did for the RA on the matter in 2011.

[attachment "Oneida MOA Recommend Memo v1.doc" deleted by Rebecca Jamison/R2/USEPA/US]

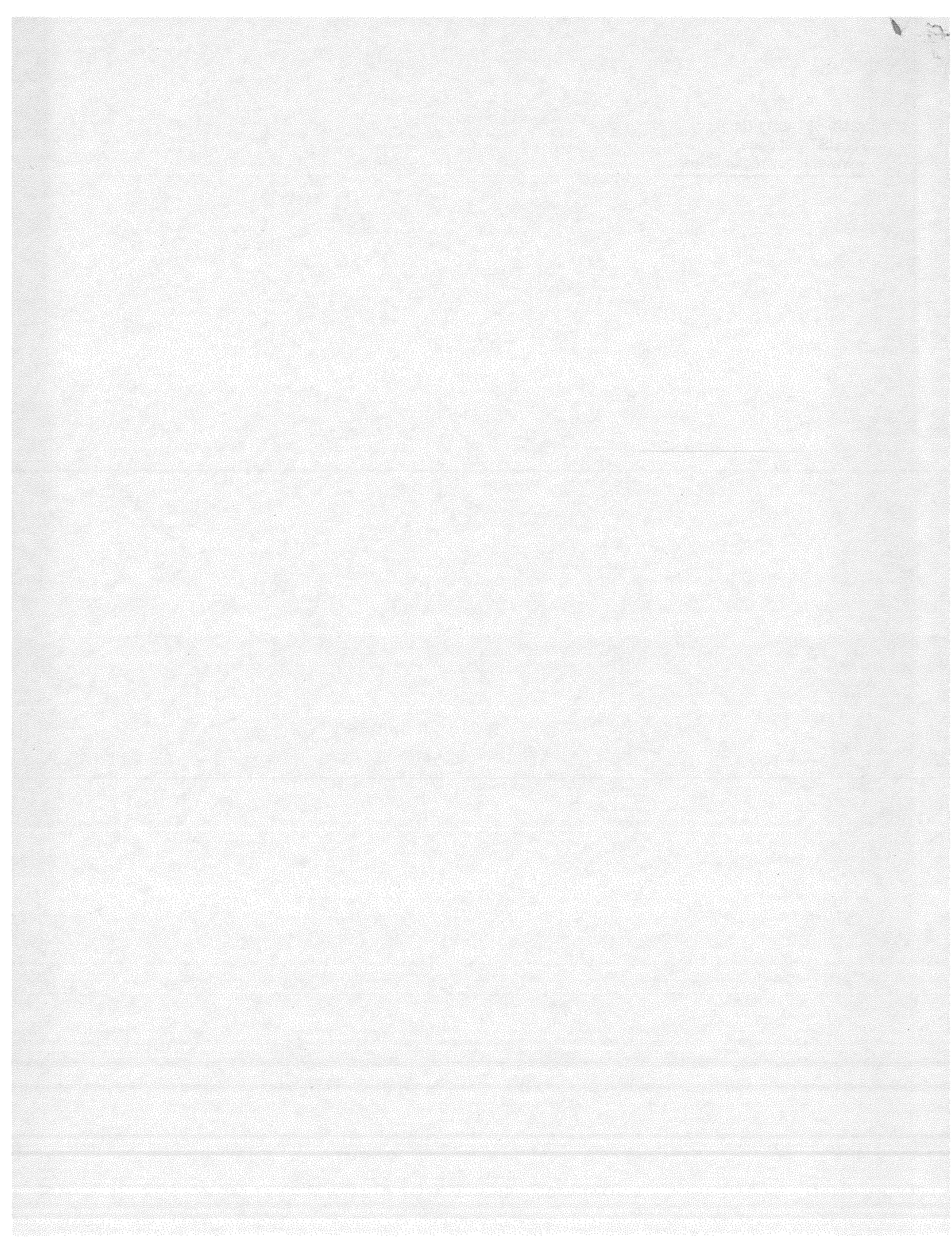
Also, George per your request, the most recent version of the MOA--it was revised based on Wilkie's January 2012 recommendation on page 3, which is redlined.

[attachment "Oneida\_USTMOA\_1 12 2012.doc" deleted by Rebecca Jamison/R2/USEPA/US]

I am awaiting the latest Oneida attachments (UST Checklist and UST Registration forms). They will look like our form but have Oneida letterhead/seals at the top.

~~~~~  
Rebecca Jamison
US EPA Region 2
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Fw: 1 of 2 APRIL NOTES ON MOA --Fw: - draft MOA cover memo (and MOA from January 2012 revision)

Grant Jonathan to: Pat Evangelista
Cc: George Pavlou

07/03/2012 09:42 AM

Pat, George:

Rebecca Jamison provided me with two April 2012 email correspondences she had with our program regarding the Oneida Indian Nation (OIN) MOA matter. Because of the sensitivity of this issue and the Nation's reaction last Tuesday, I thought you folks should see the email exchanges between DECA and DEPP. I am also forwarding an email that was sent directly to me from Janice. These emails speak for themselves.

Follow-up with George Meyer and Rebecca if there are questions.

Grant W. Jonathan
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(212) 637-3772 (fax)
Email: jonathan.grant@epa.gov

----- Forwarded by Grant Jonathan/R2/USEPA/US on 07/03/2012 09:30 AM -----

From: Rebecca Jamison/R2/USEPA/US
To: George Meyer/R2/USEPA/US@EPA
Cc: Grant Jonathan/R2/USEPA/US@EPA
Date: 07/03/2012 09:12 AM
Subject: 1 of 2 APRIL NOTES ON MOA --Fw: - draft MOA cover memo (and MOA from January 2012 revision)

Here are two email discussing the Oneida MOA from April 18, 2012. It is as I recall, I suggest "noting" it at the meeting.

I noted Ray Halbritter doesn't attend the meeting just Meghan and staff.

I do say "routing in signature" so its not clear about routing v internal concurrence.

Rebecca Jamison USEPA Region 2, DECA-UST Team 20th Floor, 290 Broadway, New York, NY 10007- 1866
voice: 212-637-3948 fax 212-637-4211
R2 UST website: <http://www.epa.gov/region02/ust/>



United States Environmental Protection Agency

----- Forwarded by Rebecca Jamison/R2/USEPA/US on 07/03/2012 09:06 AM -----

From: Rebecca Jamison/R2/USEPA/US
To: Janice Whitney/R2/USEPA/US@EPA
Cc: Grant Jonathan/R2/USEPA/US@EPA
Date: 04/18/2012 11:09 AM
Subject: - draft MOA cover memo (and MOA from January 2012 revision)

FYI--below is the UST MOA in its final form. I hope to start routing in signature within in the next two weeks.

Grant--if it is signed, in time, should we put something on the June agenda--5-10 mins noting it---Ray doesn't normally attend the meetings just Meghan and staff, or so I recall--

Not sure how to arrange all this...

~~~~~  
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----- Forwarded by Rebecca Jamison/R2/USEPA/US on 04/18/2012 11:07 AM -----

From: Rebecca Jamison/R2/USEPA/US
To: George Meyer/R2/USEPA/US@EPA, William Sawyer/R2/USEPA/US@EPA
Cc: Rebecca Jamison/R2/USEPA/US@EPA
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Subject: REVIEW - draft MOA cover memo (and MOA from January 2012 revision)

Here is the draft MOA recommendation memo. I based this on the most recent Briefing we did for the RA on the matter in 2011.

[attachment "Oneida MOA Recommend Memo v1.doc" deleted by Rebecca Jamison/R2/USEPA/US]

Also, George per your request, the most recent version of the MOA--it was revised based on Wilkie's January 2012 recommendation on page 3, which is redlined.

[attachment "Oneida_USTMOA_1 12 2012.doc" deleted by Rebecca Jamison/R2/USEPA/US]

I am awaiting the latest Oneida attachments (UST Checklist and UST Registration forms). They will look like our form but have Oneida letterhead/seals at the top.

~~~~~  
Rebecca Jamison  
US EPA Region 2  
Division of Enforcement and Compliance Assistance  
UST Team  
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(212) 637-3948 (phone)

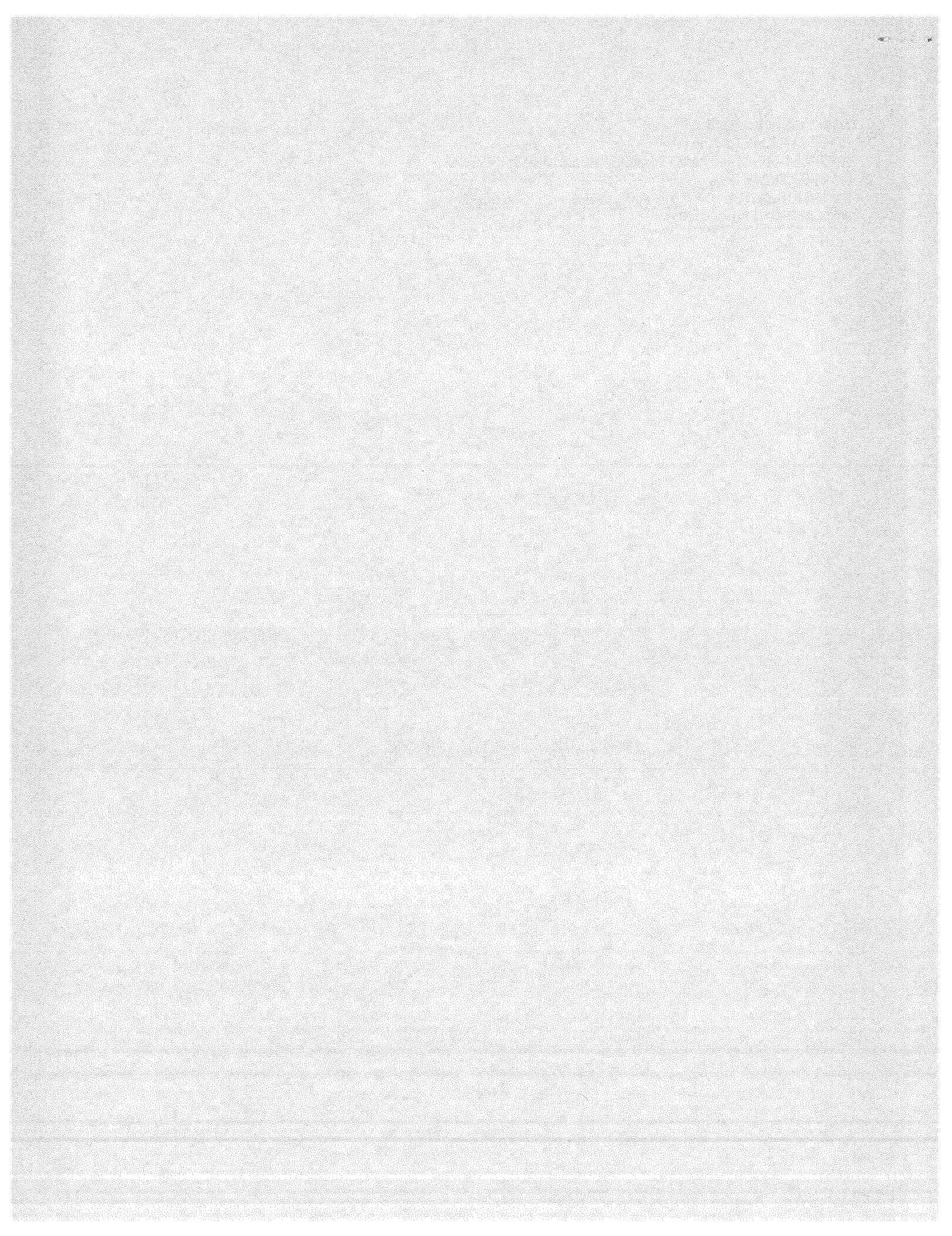
(917) 464-5583 Alternate Phone for Mon & Wed only

(212) 637-4211 (fax)

R2 UST webpage:

[www.epa.gov/region02/ust](http://www.epa.gov/region02/ust)







Grant Jonathan to: Pat Evangelista

12/06/2012 04:17 PM


Any idea what this is about?

Invitation: EJ discussion re: SRMT Letter dated 11/29/2012 (Dec 11 10:00 AM EST in OPM-ISB South Conference Room)

File Edit View Create Actions Tools Window Help

Home x Grant Jonathan - Mail x Replication and Sync x New Message x > highlights x

Accept Decline Respond Request Information... Check Calendar...

 **Invitation: EJ discussion re: SRMT Letter dated 11/29/2012**  
Tue 12/11/2012 10:00 AM - 11:00 AM  
Attendance is **optional** for Grant Jonathan  
Chair: Janice Whitney/R2/USEPA/US  
Rooms: OPM-ISB South Conference Room 2323/R2-NY@EPA

**Janice Whitney** has invited you to a meeting. You have not yet responded.

Required: ☐ Anhthu Hoang/R2/USEPA/US@EPA, Douglas Fischer/R2/USEPA/US@EPA, ☐ Terry West  
whitney.janice@epa.gov, Young Chang/R2/USEPA/US@EPA

Optional: ☐ Grant Jonathan/R2/USEPA/US@EPA, Pietro Mannino/R2/USEPA/US@EPA

**Description**

start Invitation: EJ discus... R2 Intranet Home P... July 2013 INLM Proc... SR Rec ctr0001.pdf ...

Grant W. Jonathan  
U.S. Environmental Protection Agency - Region 2  
Office of Strategic Programs - Indian Program  
290 Broadway  
New York, NY 10007



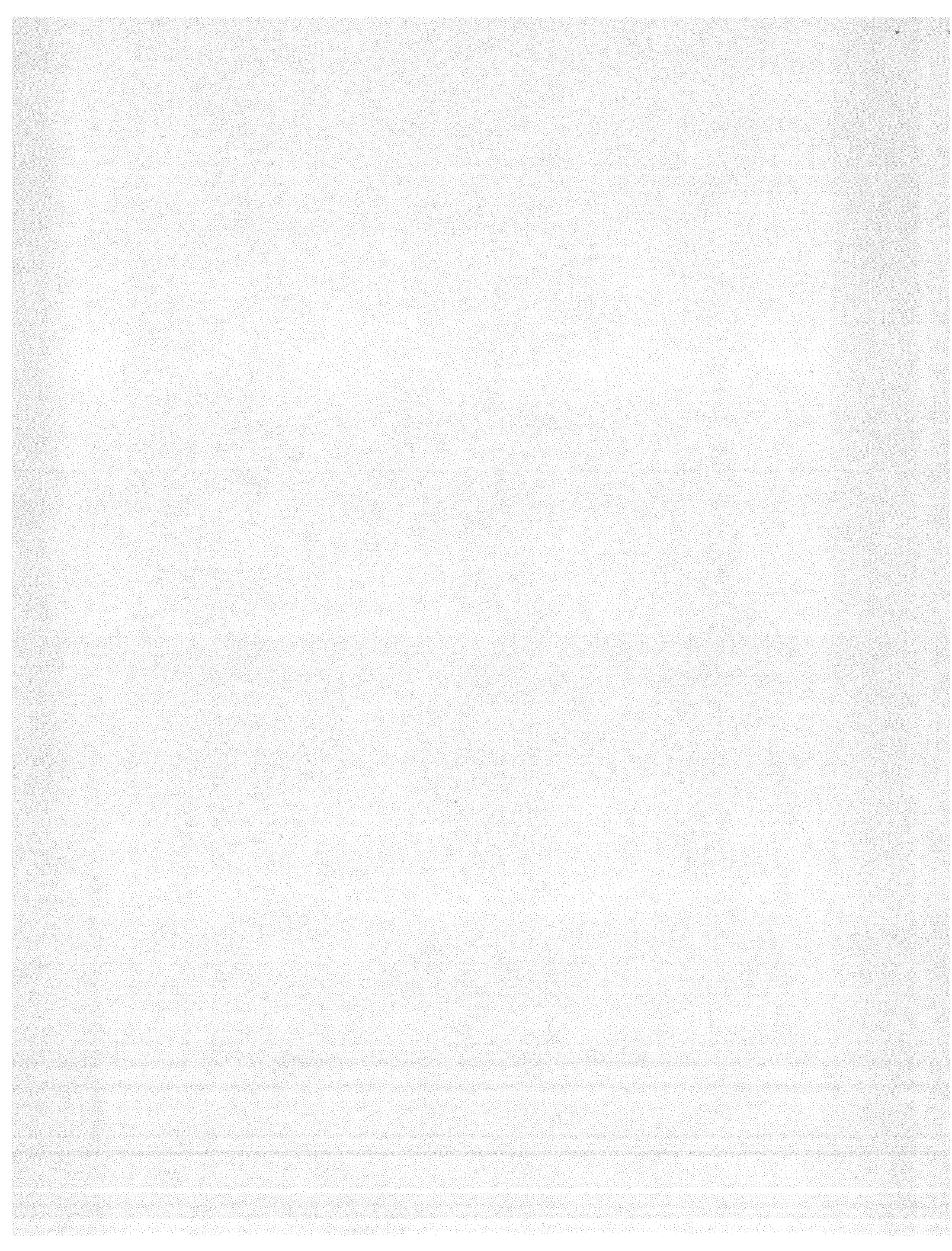
212.637.3843 (phone)

917.304.4149 (awl)

212.637.3772 (fax)

Email: [jonathan.grant@epa.gov](mailto:jonathan.grant@epa.gov)

---





Re:   
Grant Jonathan to: Pat Evangelista

12/06/2012 04:35 PM

I know it is involving EJ. But don't know what the SRMT letter is. Just strange that I am getting invited.

~~~~~  
Grant W. Jonathan
U.S. Environmental Protection Agency - Region 2
Office of Strategic Programs - Indian Program
290 Broadway
New York, NY 10007
212.637.3843 (phone)
917.304.4149 (awl)
212.637.3772 (fax)
Email: jonathan.grant@epa.gov
~~~~~

Pat Evangelista

What? Sent by EPA Wireless E-Mail Services

12/06/2012 04:32:43 PM

From: Pat Evangelista/R2/USEPA/US  
To: Grant Jonathan/R2/USEPA/US@EPA  
Date: 12/06/2012 04:32 PM  
Subject: Re:

---

What?  
Sent by EPA Wireless E-Mail Services

Grant Jonathan

Any idea what this is about?

12/06/2012 03:17 PM CST



